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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MINNESOTA

MELINDA and MARK LOE, et al.,

Plaintiffs,

v. Case No. 0:23-cv-01527-NEB-JFD

WILLIE JETT, et al.,

Defendants.

DEPOSITION OF ADOSH UNNI

January 29, 2024

9:00 a.m.

File # MW 6439446

COURT REPORTER: Christina DeGrande

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1	APPEARANCES:			1	BE IT REMEMBERED that the deposition upon		
2	On Behalf of Plaintiff:			2	oral examination of Adosh Unni was taken on January		
3	Eric Baxter, Esq.			3	29th, 2024, at 9:00 a.m., at 80 South 8th Street,		
4	Andrea Butler, Esq.			4	Suite 3100, Minneapolis, Minnesota, before Christina		
5	Ben Fleshman, Esq.			5	DeGrande, Professional Stenographer, Notary Public		
6	Becket Law			6	in and for the State of Minnesota.		
7	1919 Pennsylvania Avenue Northwest, Suite 400			7	Whereupon, the following proceedings were		
8	Washington D.C. 20006			8	had, to wit:		
9	202-349-7221			9	THE COURT REPORTER: Please raise your		
10	Ebaxter@becketlaw.org			10	right hand.		
11				11	Do you swear or affirm that the		
12	On Behalf of the Attorney General's Office:			12	testimony you are about to provide for the		
13	Jeff Timmerman, Assistant Attorney General			13	cause under consideration will be the truth		
14	Madeleine Demeules, Assistant Attorney General			14	and the whole truth, so help you?		
15	445 Minnesota Street, Suite 1400			15	THE WITNESS: I do.		
16	St. Paul, Minnesota 55101			16			
17	651-300-6807			17	DIRECT EXAMINATION		
18	Jeff.timmermmerman@ag.state.mn.us			18	BY MR. BAXTER:		
19				19	Q. Good morning, Mr. Unni. Am I saying that right?		
20	ALSO PRESENT: Richard Landon, Esq., Lathrop GMP LLP			20	A. Yes.		
21				21	Q. Could you state your full name for the record?		
22				22	A. Adosh Unni.		
23				23	Q. Okay. And you know that you're here to answer		
24				24	questions about the lawsuit in Loe versus Jett,		
25				25	correct?		
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1	I N D E X			1	A. Yes.		
2	WITNESS EXAMINATION PAGE			2	Q. And you understand that the lawsuit is a challenge		
3	ADOSH UNNI DIRECT 4			3	to the 2023 amendment to the PSEO program that		
4				4	prohibits the use of PSEO funds at schools that		
5	E X H I B I T S			5	restrict admission based on religion or other		
6	NUMBER DESCRIPTION MARKED			6	protected categories; is that accurate?		
7	Exhibit 1 Notice of Deposition 5			7	A. Yes.		
8	Exhibit 2 4/17/2008 Email 118			8	(Exhibit 1 was marked for		
9	Exhibit 3 4/11/2018 Email 121			9	identification.)		
10	Exhibit 4 2/16/2023 Email 131			10	BY MR. BAXTER:		
11	Exhibit 5 11/8/2020 Email 143			11	Q. Showing you a document that's been marked as		
12	Exhibit 6 2/6/2021 Email 146			12	Exhibit 1. Are you familiar with this document?		
13	Exhibit 7 12/6/2021 Email 150			13	A. Yes, I'm familiar with these themes and topics.		
14	Exhibit 8 3/7/2022 Email 155			14	Q. Okay. And you're aware that you've been asked to		
15	Exhibit 9 2/7/2023 Email 160			15	testify today on behalf of the Minnesota Department		
16	Exhibit 10 3/6/2023 Email 163			16	of Education; is that correct?		
17	Exhibit 11 10/10/2023 Email 167			17	A. Yes.		
18	Exhibit 12 3/09/2023 Email 174			18	Q. And that you've specifically been asked to answer --		
19	Exhibit 13 3/16/2023 Email 181			19	respond to the topics designated as Numbers 2, 3,		
20	Exhibit 14 3/17/2023 Email 192			20	and 11 on this document; is that correct?		
21	Exhibit 15 Bethany Lutheran College 201			21	A. Yes, yes.		
22	Statement			22	Q. And you were aware of that before coming to this		
23				23	deposition?		
24				24	A. Yes, I was.		
25				25	Q. Okay. And you understand that you're answering		

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<p>1 questions today under oath?</p> <p>2 A. Yes.</p> <p>3 Q. As you may know, the reporter is taking down</p> <p>4 everything we say, so it's important to speak slowly</p> <p>5 so that she can take down what we say, not to talk</p> <p>6 over each other, wait for each other to answer</p> <p>7 before we continue.</p> <p>8 It's also important that you give verbal</p> <p>9 answers, not shaking your head, which the reporter</p> <p>10 can't capture. It's also difficult to transcribe</p> <p>11 "Uh-huh" and "Huh-uh," so we ask you to use "Yes" or</p> <p>12 "No" when you answer questions where appropriate.</p> <p>13 If you need a break at any time, let me know. We'll</p> <p>14 usually try to take one every 60 to 90 minutes. But</p> <p>15 if you need one in between, we'll finish our line of</p> <p>16 questioning and then do that.</p> <p>17 If you don't understand a question, just let me</p> <p>18 know. Is there any reason why you wouldn't be able</p> <p>19 to give full, complete, and truthful answers to my</p> <p>20 questions today?</p> <p>21 A. No.</p> <p>22 Q. Have you ever been deposed before?</p> <p>23 A. No.</p> <p>24 Q. Okay. Have you ever been involved in a lawsuit</p> <p>25 before?</p>	<p>1 A. Yes.</p> <p>2 Q. And what was MDE's involvement?</p> <p>3 A. As a party, as a defendant being named in the suit.</p> <p>4 Q. Were you asked to testify in that case?</p> <p>5 A. No.</p> <p>6 Q. You just gathered documents?</p> <p>7 A. Yeah, correct.</p> <p>8 Q. Any other cases?</p> <p>9 A. No.</p> <p>10 Q. And so you've never testified in court; is that</p> <p>11 correct?</p> <p>12 A. Correct.</p> <p>13 Q. Do you keep a journal?</p> <p>14 A. No.</p> <p>15 Q. Have you ever written anything related to -- if I</p> <p>16 say the word, "amendment," you know that I'm</p> <p>17 referring to the PSEO amendment that's at issue in</p> <p>18 this case; is that correct?</p> <p>19 A. Yeah. For the purposes of this, yes. I mean, in</p> <p>20 the course of our work, we wouldn't call it an</p> <p>21 amendment.</p> <p>22 Q. What do you call it?</p> <p>23 A. We call it a legislative proposal. So amendment</p> <p>24 normally is an amendment to a bill, so it's a change</p> <p>25 to a bill that's a legislative proposal. But we</p>
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<p>1 A. In what capacity? I was -- I mean, I was a law</p> <p>2 clerk.</p> <p>3 Q. Okay. Have you ever been named in a lawsuit before?</p> <p>4 A. No.</p> <p>5 Q. And have you ever been -- worked for an institution</p> <p>6 that was named in a lawsuit at the time that you</p> <p>7 worked for them?</p> <p>8 A. Yes.</p> <p>9 Q. And were you personally involved in those lawsuits?</p> <p>10 A. Can you ask some further clarifying questions?</p> <p>11 Q. Sure. Can you tell me what -- when you said, "Yes,"</p> <p>12 what lawsuits did you have in mind?</p> <p>13 A. Well, just to the -- Cruz-Guzman.</p> <p>14 Q. And where -- which -- why were you involved in that?</p> <p>15 What was your involvement in that lawsuit?</p> <p>16 A. Just gathering documentation for discovery.</p> <p>17 Q. Okay. And were you in the case for plaintiff or the</p> <p>18 defendant?</p> <p>19 A. Defendant.</p> <p>20 Q. And who is Guzman?</p> <p>21 A. A parent on behalf of a child.</p> <p>22 Q. And what was your role there?</p> <p>23 A. My role, in my current role as director of</p> <p>24 government relations.</p> <p>25 Q. Okay. So this was a lawsuit that involved MDE?</p>	<p>1 would normally call it a legislative proposal or a</p> <p>2 change of statute. But for the purposes of this, I</p> <p>3 would --</p> <p>4 Q. You'll understand what I mean when I say,</p> <p>5 "amendment"?</p> <p>6 A. Yes.</p> <p>7 Q. Okay.</p> <p>8 A. It just throws me off a little bit.</p> <p>9 Q. Okay. Hopefully, we'll be used to that by the end</p> <p>10 of the deposition. You said you don't keep a</p> <p>11 journal. Have you written anything related to the</p> <p>12 amendment since the time that you first became aware</p> <p>13 of it?</p> <p>14 A. I do not -- I don't know. I may have -- may have</p> <p>15 taken notes.</p> <p>16 Q. Do you regularly maintain a calendar?</p> <p>17 A. A digital calendar, yes.</p> <p>18 Q. Okay. Do you maintain a to-do list?</p> <p>19 A. Yes.</p> <p>20 Q. And would that to-do list have included items</p> <p>21 related to this lawsuit or the amendment?</p> <p>22 A. Possibly.</p> <p>23 Q. And do you have a notebook where you take notes of</p> <p>24 meetings?</p> <p>25 A. Yes.</p>

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<p>1 Q. Okay. Is that just a single notebook? Is it on 2 your computer? 3 A. It is a single notebook. 4 Q. At any point in this lawsuit, were you asked to look 5 for documents in your possession related to this 6 lawsuit? 7 A. Yes. 8 Q. Okay. And what did you do to look? 9 A. I looked through my emails, I looked through my -- 10 any memos or anything I would have -- would have 11 produced, and I looked through my notes. 12 Q. And can you give me a general sense of what you 13 found or the quantity? 14 A. Just emails. I found that I did not produce any 15 memos or any -- anything on that and that I did not 16 produce -- I'm sorry. I did not create any, like, 17 notes in my notebook of any meetings. 18 Q. And did you review your calendar? 19 A. Yes. I believe, I did. Yep. 20 Q. And was there anything on your calendar related to 21 the lawsuit? 22 A. I believe just the meetings that we had with the 23 representatives of some of the colleges in question 24 who were questioning the proposal. 25 Q. Okay. Did you look at your to-do list?</p>	<p>1 emails related to this lawsuit or the amendment. 2 About how many emails did you find? 3 A. I don't remember. I don't remember the number. 4 Q. Was it in the hundreds? In the dozens? 5 A. Oh, jeez, no. Probably in the dozen, couple dozen 6 or so. 7 Q. And you turned those emails over to your counsel? 8 A. Correct. 9 Q. Do you remember the general content of those emails? 10 A. Yes. 11 Q. And what -- can you describe for me what you 12 remember? 13 A. I believe it was a discussion of -- the most recent 14 ones were conversations around the -- about the 15 proposal going to the legislature around meetings we 16 have coming up or that we had with representatives 17 from, I believe, Northwestern and Crown College. 18 And then in the past, back a few years, it was 19 around the practice in question in the suit that was 20 the subject of the legislation and I believe some 21 emails around past actions the Department -- or past 22 activities the Department had in this space, I 23 believe, specific to Northwestern. But those were 24 time -- from time before I was at the Department, 25 just, like, refreshers of what other staff had</p>
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<p>1 A. Yes. I'm trying to remember where I had my to-do 2 list at that time. Yes. 3 Q. And besides emails, did you find anything else -- 4 and the -- the calendar items that you mentioned, 5 did you find anything else related to this lawsuit? 6 A. No. 7 Q. Did you check texts -- text messages? 8 A. Yes. 9 Q. And was there anything in your text messages related 10 to this lawsuit? 11 A. Other than we met with individuals, nothing. 12 Q. Do you use any social media? 13 A. No. Well, work-related, no. 14 Q. Okay. Would you have put anything on your 15 personal -- 16 A. Let me amend that. I have -- I note on my -- I 17 think, on my Twitter account that I work for the 18 Department of Education, but I don't post at all. 19 Q. Would you ever have posted anything online related 20 to this lawsuit or the amendment? 21 A. I don't believe so. 22 Q. Have you checked for that? 23 A. I have not, but I have not posted on Twitter for 24 many years. 25 Q. Understood. You mentioned that you did find some</p>	<p>1 encountered in their history in this space and then, 2 I believe, around staff opinions in that space. And 3 then I think I opined in that space and then maybe 4 preparation for a meeting that we had with one of 5 the colleges. I can't remember which one it was at 6 this time. 7 Q. And were most of those emails with outside parties? 8 A. Almost all of the emails from before were with 9 internal staff to the Department. Although, I feel 10 like maybe there were some emails -- I feel like 11 there were some emails with maybe an attorney here 12 at Lathrop or -- it was Gray Plant Mooty at the 13 time. And then in terms of the more recent emails, 14 I believe there was some email exchanges with 15 representatives from Crown College and the 16 University of Northwestern. 17 Q. Thank you. And on those internal emails, were 18 those -- were there attorneys involved in those 19 communications? 20 A. I'm an attorney. Not acting in my capacity as an 21 attorney for the Department then -- I -- yes. In 22 the more recent emails, there were attorneys. Like, 23 our general counsel was on some of the emails 24 internally. And then I believe there may have been 25 some emails with the Attorney General's Office in</p>

<p style="text-align: right;">Page 14</p> <p>1 earlier -- earlier times.</p> <p>2 Q. Okay. Can you tell me about the texts that you said</p> <p>3 you found? I believe you said there were texts</p> <p>4 related to meetings you had with outside parties and</p> <p>5 perhaps others; is that accurate?</p> <p>6 A. I think there were just texts about, I'm joining</p> <p>7 this meeting.</p> <p>8 Q. Okay.</p> <p>9 A. Yeah.</p> <p>10 Q. And did you produce those -- copies of those texts</p> <p>11 to your counsel?</p> <p>12 A. I cannot remember if I had them or not.</p> <p>13 Q. And do you remember who those texts would have been</p> <p>14 with?</p> <p>15 A. They would have been with my -- with counsel and</p> <p>16 maybe, I think, letting -- maybe -- trying to think</p> <p>17 if there was anybody. I think it was just counsel,</p> <p>18 internal counsel, general counsel to the Minnesota</p> <p>19 Department of Education.</p> <p>20 Q. Do you recall any others?</p> <p>21 A. No.</p> <p>22 Q. Other than speaking with your attorney, what did you</p> <p>23 do to prepare for this deposition today?</p> <p>24 A. Reviewed some emails.</p> <p>25 Q. Okay. And as far as you know, were those emails the</p>	<p style="text-align: right;">Page 16</p> <p>1 BY MR. BAXTER:</p> <p>2 Q. Both.</p> <p>3 A. Personal view in religion in the world is everybody</p> <p>4 has the right to have their own religion. And my</p> <p>5 professional is that religion is, you know,</p> <p>6 everybody's allowed to have their religion in the</p> <p>7 world, and that's a constitutionally protected</p> <p>8 right.</p> <p>9 Q. And you're not personally religious?</p> <p>10 A. No.</p> <p>11 Q. Do you participate in any religious communities?</p> <p>12 THE WITNESS: What's relevance</p> <p>13 pertained to this whole --</p> <p>14 MR. TIMMERMAN: You can answer.</p> <p>15 Standing objection as to relevance.</p> <p>16 But you can answer these questions.</p> <p>17 THE WITNESS: All right. Can you</p> <p>18 repeat the question, please?</p> <p>19 BY MR. BAXTER:</p> <p>20 Q. Yeah. Just do you participate in any religious</p> <p>21 communities?</p> <p>22 A. No.</p> <p>23 Q. Do you observe any religious holidays?</p> <p>24 A. Yes.</p> <p>25 Q. And what are those?</p>
<p style="text-align: right;">Page 15</p> <p>1 same ones that you gave to your counsel that were</p> <p>2 related to this case?</p> <p>3 A. Yes.</p> <p>4 Q. Did you review any other documents?</p> <p>5 A. No.</p> <p>6 Q. Did you bring any of those documents with you today?</p> <p>7 A. No.</p> <p>8 Q. Did you take any notes?</p> <p>9 A. No.</p> <p>10 Q. Did you meet with anyone besides your attorney?</p> <p>11 A. No.</p> <p>12 Q. I'm going to get some background information from</p> <p>13 you. Do you mind telling me where you were born?</p> <p>14 A. Minnesota, Rochester, Minnesota.</p> <p>15 Q. Okay. And you lived your -- grew up in Minnesota?</p> <p>16 A. Yes.</p> <p>17 Q. Share with me what your religions background is, if</p> <p>18 any?</p> <p>19 A. I have no religious background.</p> <p>20 Q. Okay. What's your -- mind sharing your view on the</p> <p>21 role of religion in the world?</p> <p>22 MR. TIMMERMAN: Objection, relevance.</p> <p>23 You can answer.</p> <p>24 THE WITNESS: My personal or</p> <p>25 professional?</p>	<p style="text-align: right;">Page 17</p> <p>1 A. Christmas.</p> <p>2 Q. Okay. Any others?</p> <p>3 A. Diwali every once in a while.</p> <p>4 Q. Can you explain what Diwali is?</p> <p>5 A. Festival of lights, Indian, Hindu religious holiday.</p> <p>6 Q. Any other religious activities that you participate</p> <p>7 in?</p> <p>8 A. No, no.</p> <p>9 Q. Do you have a personal understanding of what the</p> <p>10 Free Exercise Clause is?</p> <p>11 A. Yes.</p> <p>12 Q. And what's your understanding of the Free Exercise</p> <p>13 Clause?</p> <p>14 A. My understanding is that it's a constitutionally</p> <p>15 protected right to be able to practice one's</p> <p>16 religion --</p> <p>17 Q. And do you have --</p> <p>18 A. -- without infringement by the government.</p> <p>19 Q. And do you have a personal perspective on the</p> <p>20 importance of the Free Exercise Clause?</p> <p>21 A. I -- not any more than any other personal rights.</p> <p>22 So I -- I mean, I -- actually, I should answer the</p> <p>23 question yes.</p> <p>24 Q. Okay. And what is that view?</p> <p>25 A. My view is that it's a constitutionally protected</p>

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<p>1 right and that people, to protect that right, should</p> <p>2 be able to avail themselves of the legal system to</p> <p>3 be able to protect themselves if they feel it's been</p> <p>4 infringed, that right has been infringed.</p> <p>5 Q. Are you familiar with recent Supreme Court cases on</p> <p>6 the Free Exercise Clause?</p> <p>7 A. Vaguely familiar.</p> <p>8 Q. With which ones?</p> <p>9 A. I mean, I couldn't name any right now.</p> <p>10 Q. What's your personal understanding of the</p> <p>11 Establishment Clause?</p> <p>12 A. My understanding is that the government can't make</p> <p>13 any laws that puts one religion over the other or</p> <p>14 seems to make laws that favor one religion over</p> <p>15 another.</p> <p>16 Q. Do you have a -- what's your personal sense of the</p> <p>17 importance of the Establishment Clause to our system</p> <p>18 of governments?</p> <p>19 A. I'd say, to be able to treat people equally under</p> <p>20 the law that it's fundamental to the government's</p> <p>21 interaction with its citizenry.</p> <p>22 Q. Do you have any perspective on what the limitations</p> <p>23 or flaws might be in the Free Exercise Clause or the</p> <p>24 Establishment Clause?</p> <p>25 MR. TIMMERMAN: Objection to the extent</p>	<p>1 Q. What was your role at the radio station?</p> <p>2 A. I was a DJ for four years.</p> <p>3 Q. Okay. And was it all music, or was it, like, talk?</p> <p>4 A. Ninety-five percent of it was music, and then five</p> <p>5 percent, I did, like, a -- like a pre-recorded,</p> <p>6 like, this is the news of the day.</p> <p>7 Q. What kind of music?</p> <p>8 A. Classic rock, vinyl.</p> <p>9 Q. And did your news of the day -- it was just the news</p> <p>10 of the day, or did it have opinion in it?</p> <p>11 A. No opinion, all just news of the day.</p> <p>12 Q. Other interests that you pursued while in</p> <p>13 undergraduate?</p> <p>14 A. Sports and just some music.</p> <p>15 Q. And during college, did you have a job?</p> <p>16 A. For, like, a couple terms as a -- as an intermural,</p> <p>17 like, monitor, intermural sports monitor.</p> <p>18 Q. Did you work at the -- after college where did you</p> <p>19 go to work?</p> <p>20 A. I taught English abroad for a year.</p> <p>21 Q. Where was that?</p> <p>22 A. In Chili.</p> <p>23 Q. Did you already speak Spanish?</p> <p>24 A. Barely.</p> <p>25 Q. Where else did you work?</p>
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<p>1 it calls for a legal conclusion. And I just</p> <p>2 want to make clear, he's testifying in his</p> <p>3 personal capacity as to these questions.</p> <p>4 Go ahead.</p> <p>5 THE WITNESS: Thank you.</p> <p>6 Yeah. Can you repeat the question?</p> <p>7 BY MR. BAXTER:</p> <p>8 Q. Yeah. Just a sense of personal view on limitations</p> <p>9 or flaws in the Free Exercise Clause or the</p> <p>10 Establishment Clause.</p> <p>11 A. You know, I haven't really thought much about the</p> <p>12 limitations or flaws, so...</p> <p>13 Q. You studied at Carleton College?</p> <p>14 A. Correct.</p> <p>15 Q. Is that here in Minnesota?</p> <p>16 A. Yes.</p> <p>17 Q. Your degree in international relationships --</p> <p>18 A. Correct.</p> <p>19 Q. -- relations. While a student on campus, did you</p> <p>20 participate in any student groups?</p> <p>21 A. Yes.</p> <p>22 Q. Which ones?</p> <p>23 A. Trying to remember. I haven't reviewed my CV in</p> <p>24 quite a while. Probably a soccer club, a radio</p> <p>25 station. I can't remember which else.</p>	<p>1 A. I worked in Washington D.C.</p> <p>2 Q. As?</p> <p>3 A. As a -- what was it? A paralegal assistant and then</p> <p>4 as a reporter.</p> <p>5 Q. A paralegal assistant in a law firm?</p> <p>6 A. Yes.</p> <p>7 Q. And can you remember the law firm?</p> <p>8 A. Again, haven't reviewed -- I can't remember the</p> <p>9 name, but it was, like, an insurance law firm.</p> <p>10 Q. Okay. And then you said a reporter?</p> <p>11 A. Yes.</p> <p>12 Q. A legal reporter or news reporter?</p> <p>13 A. News reporter.</p> <p>14 Q. Okay. Was that at The Gray Sheet?</p> <p>15 A. Yes.</p> <p>16 Q. And what's The Gray Sheet?</p> <p>17 A. They report on, not just -- I mean, solely on</p> <p>18 medical device news.</p> <p>19 Q. And so you were -- is that what you were writing on,</p> <p>20 or were there other topics you were --</p> <p>21 A. Only medical devices.</p> <p>22 Q. And what was your background for that?</p> <p>23 A. I could write well.</p> <p>24 Q. You turned to the University of Minnesota for your</p> <p>25 law degree; is that correct?</p>

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<p>1 A. Correct.</p> <p>2 Q. Before that, was there any other place you were</p> <p>3 employed?</p> <p>4 A. No.</p> <p>5 Q. While you were at the University of Minnesota, were</p> <p>6 there any student groups you participated in?</p> <p>7 A. Yes. I was on Law Council, so that's the student</p> <p>8 government, on health law -- I can't remember the</p> <p>9 title of it. I was in the soccer club. I was on</p> <p>10 their governing board of that, and. I know there</p> <p>11 was one or two other -- oh, Asylum Law Project. I</p> <p>12 was on their board. And there was, like, one or two</p> <p>13 other small groups. I can't remember.</p> <p>14 Q. Okay.</p> <p>15 A. Oh, TORT. It was, like, the drama club.</p> <p>16 Q. You actually produced dramas?</p> <p>17 A. Yeah. Student written, produced, music, everything.</p> <p>18 Acted, performed at the Pantages.</p> <p>19 Q. And were you a writer?</p> <p>20 A. No. I was a performer.</p> <p>21 Q. These are student written?</p> <p>22 A. Mm-hmm.</p> <p>23 Q. Did you -- were you involved in any political</p> <p>24 activities while in law school?</p> <p>25 A. Yes.</p>	<p>1 Q. Okay. Any other political involvement?</p> <p>2 A. Yes. I was an intern on Capitol Hill.</p> <p>3 Q. In Washington D.C.?</p> <p>4 A. Yes.</p> <p>5 Q. For who?</p> <p>6 A. For Senator Clinton and for Representative</p> <p>7 Gutknecht.</p> <p>8 Q. What years was that?</p> <p>9 A. Summer of 2002 and summer of 2003.</p> <p>10 Q. And what were your responsibilities?</p> <p>11 A. So I was an -- as an intern for Representative</p> <p>12 Gutknecht, it was drafting, doing mail stuff, and</p> <p>13 helping draft letters for constituent responses.</p> <p>14 That was, like, predominantly the activities. And</p> <p>15 similar for Secretary Clinton -- or I'm sorry --</p> <p>16 Senator Clinton at the time.</p> <p>17 Q. And any other political activities?</p> <p>18 A. In -- can I ask just a clarifying question?</p> <p>19 Q. Sure.</p> <p>20 A. Is that in general?</p> <p>21 Q. Up to law school.</p> <p>22 A. Up to law school. I don't think so, other than</p> <p>23 voting.</p> <p>24 Q. What triggered your interest in politics?</p> <p>25 A. That's a good question. I don't know. I</p>
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<p>1 Q. What were those?</p> <p>2 A. Like door-knocked.</p> <p>3 Q. Okay. For?</p> <p>4 A. For the DFL and for a nonpartisan just</p> <p>5 get-out-and-vote organization.</p> <p>6 Q. Okay. And what year was that?</p> <p>7 A. Gosh, that would have been 2008.</p> <p>8 Q. Do you remember what you were door-knocking for</p> <p>9 specifically?</p> <p>10 A. I -- for the get-out-to-vote. It was literally just</p> <p>11 get-out-to-vote. And then for the DFL, I can't</p> <p>12 remember -- I think, it was just for a slate of</p> <p>13 candidates. And then I did election -- one activity</p> <p>14 I forgot to mention is in 2008, I did election</p> <p>15 monitoring or poll monitoring for the DFL.</p> <p>16 Q. Okay. Had you previously been involved in any</p> <p>17 political activities?</p> <p>18 A. Yes.</p> <p>19 Q. And what were those?</p> <p>20 A. I was a field intern for the DFL in 2003.</p> <p>21 Q. Okay. So that was when you were in college as an</p> <p>22 undergrad?</p> <p>23 A. Yes, when I was an undergrad.</p> <p>24 Q. And what did that involve?</p> <p>25 A. It was running phone banks for the DFL.</p>	<p>1 honestly don't know. That's something I'll have to</p> <p>2 go back and think about. I'll give a general</p> <p>3 answer. Probably where it came from is that my</p> <p>4 decision to pursue international relations and</p> <p>5 political science degree probably spurred an</p> <p>6 interest to then engage in the political system.</p> <p>7 Q. So in high school, no real political --</p> <p>8 A. No.</p> <p>9 Q. -- activities? What activities did you pursue in</p> <p>10 high school?</p> <p>11 A. Sports, drama. That's pretty much it.</p> <p>12 Q. During law school, did you have summer internships</p> <p>13 or jobs in between your years of law school?</p> <p>14 A. Yes.</p> <p>15 Q. And where were those?</p> <p>16 A. After first year, Kennedy & Graven, which is a law</p> <p>17 firm downtown here.</p> <p>18 Q. What did you do for Kennedy?</p> <p>19 A. Just normal first-year law clerk stuff, like help</p> <p>20 draft stuff and review documents and produce</p> <p>21 research. After second year -- yeah, was</p> <p>22 second-year law clerk, clerkship at Briggs & Morgan.</p> <p>23 Q. What did you do for them?</p> <p>24 A. Normal stuff like do research, draft memos, produce</p> <p>25 legal writing.</p>

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<p>1 Q. And in law school, did you develop any relationships 2 with any professors, faculty, or staff who played 3 any role in the amendment at issue in this lawsuit? 4 A. No. 5 Q. What about at Kennedy & Graven? 6 A. No. 7 Q. What about at Briggs & Morgan? 8 A. No. 9 Q. After law school, where did you go to work? 10 A. I went to work in district court -- Minnesota 11 District Court for Judge Phil Bush, Philip Bush. 12 Q. Was that a one-year clerkship? 13 A. Yes, kind of. Let me clarify just to be completely 14 accurate. It was a three-month internship -- 15 fellowship, and then that extended into roughly 16 around a year and three months. It was three 17 months, and then I think we tacked on a year. 18 Q. And the kind of work you did there? 19 A. Drafting, doing, like, draft opinions for the judge, 20 doing research, sitting in on court cases to take 21 notes, assisting with, like, court just like 22 logistics. 23 Q. And the name of the judge again was? 24 A. Philip D. Bush. 25 Q. Debush, and is Judge Debush still on the --</p>	<p>1 Q. How did you get that job? 2 A. I applied. 3 Q. Okay. Any particular reason why you applied? 4 A. Because I was then interested in getting into 5 government. 6 Q. And why was that? 7 A. Because I didn't like practicing law. 8 Q. Fair enough. When you were hired there, with whom 9 did you work? 10 A. I was -- a lot of different people. 11 Q. Okay. So the DFL Caucus is a group of members in 12 the House who are members of the DFL; is that 13 correct? 14 A. Yes. 15 Q. And what -- what's the role of the Caucus? 16 A. The Caucus is basically constitutes the body of 17 lawmakers in one particular party or who affiliates 18 with that party. And then they have a number of 19 staff that they -- based on if they're a majority or 20 minority, they have a number of staff who fulfill 21 various roles. 22 Q. What was the type of work that you were doing? 23 A. So I was a caucus researcher, so I carried out 24 research projects for any member of the caucus that 25 requested it, but specifically, my main role was to</p>
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<p>1 A. D. Bush. Sorry, D is his middle initial. 2 Q. Oh. 3 A. No. He is retired. 4 Q. He's retired. Have you maintained contact with 5 Judge Bush? 6 A. No. 7 Q. As far as you know, did he have any role in this -- 8 the amendment that led to this litigation? 9 A. No, as far as I know. 10 Q. After working for the judge, where did you go? 11 A. I went to do document review -- 12 Q. Okay. 13 A. -- at a range of places. 14 Q. Okay. And how long did you do that? 15 A. Roughly around a year, I think. Let me think. 16 Yeah. Roughly around a year, like, 9 to 11 months, 17 somewhere in that range. 18 Q. Was that for one firm or you said several different 19 firms? 20 A. Several firms. 21 Q. And after that concluded, where did you go? 22 A. I then worked -- and that was project-based, so did 23 not work, worked, did not work. But then my 24 employment thereafter was with the House DFL Caucus, 25 Minnesota House of Representative DFL Caucus.</p>	<p>1 staff the education committees -- education-focused 2 committees in the House of Representative for the 3 DFL. 4 Q. When you say your role was to staff those 5 committees, what do you mean by that? 6 A. So I would be the main researcher -- the researcher 7 for those committees where I would research the 8 bills that were up, provide background memos for DFL 9 members who sat on those committees, and helped 10 assist the -- I assisted the committee chairs in any 11 tasks that they needed done. 12 Q. Did you work on any PSEO-related issues while you 13 were working for the caucus? 14 A. I am sure I did. 15 Q. Do you remember any of them? 16 A. No, not specifically the details, but I'm sure I did 17 work on PSEO issues. 18 Q. And why are you sure? 19 A. Because that has been a focus -- I do remember one 20 specific issue on PSEO. It was around advertising. 21 Could postsecondary institutions advertise, where 22 could they advertise to high school students, like 23 on billboards and on flyers to come to their 24 programs. And that was the one issue. I'm sure 25 there were more. But that was the one issue that</p>

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<p>1 was the biggest issue.</p> <p>2 Q. What was the concern there?</p> <p>3 A. It's about aid. It's about money. If a student</p> <p>4 spends more time -- the more time a student spends</p> <p>5 on campus at a PSEO institution, the less money a</p> <p>6 district or charter school gets for that student.</p> <p>7 Q. And so what does that have to do with advertising?</p> <p>8 A. So the more a postsecondary institution advertises</p> <p>9 to students to come to their institution, the more</p> <p>10 time or more likely they are to realize that it</p> <p>11 exists and go and get access to higher education</p> <p>12 credits and then -- so the more likely they are to</p> <p>13 spend time on the postsecondary institution, meaning</p> <p>14 the less money a school district will have for its</p> <p>15 operations.</p> <p>16 Q. And what was the caucus's interest in that</p> <p>17 situation? Were they trying to increase</p> <p>18 opportunities to get into PSEO or to decrease the</p> <p>19 opportunity?</p> <p>20 A. I don't know about the caucus -- I can't remember</p> <p>21 the full -- I can't speak for the full caucus. I</p> <p>22 would say the opinion was split on the issue.</p> <p>23 Q. And what about on the committee, the education</p> <p>24 committee?</p> <p>25 A. I would say the issue was split. I would say that</p>	<p>1 A. Correct.</p> <p>2 Q. Okay. Any other committees that you were staffed</p> <p>3 to?</p> <p>4 A. Not as a regular committee.</p> <p>5 Q. While you were working for the caucus, did you ever</p> <p>6 work on any issues concerning religious</p> <p>7 institutions?</p> <p>8 A. Not that I recall.</p> <p>9 Q. Any issues regarding admissions of students into</p> <p>10 religious institutions?</p> <p>11 A. Not that I recall.</p> <p>12 Q. Do you remember ever having discussions with anybody</p> <p>13 about religious institutions of education?</p> <p>14 A. No.</p> <p>15 Q. Who did you -- were there any -- this was in the</p> <p>16 Minnesota House; is that correct?</p> <p>17 A. Correct.</p> <p>18 Q. Okay. Were there any House members that you worked</p> <p>19 with in particular?</p> <p>20 A. The chairs of the committees.</p> <p>21 Q. Okay. Anyone else?</p> <p>22 A. And then to a lesser extent, the member -- the DFL</p> <p>23 members of the committees.</p> <p>24 Q. Okay. Were there any with whom you developed a</p> <p>25 special relationship?</p>
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<p>1 was a -- like, it was a -- wasn't, like, a political</p> <p>2 position. It was more of a geographic position.</p> <p>3 Q. Okay. And what -- how did geography impact the</p> <p>4 issue?</p> <p>5 A. It's, I think, when you have smaller districts with</p> <p>6 fewer students, the more students you get pulled</p> <p>7 away, the bigger impact that has on your budget.</p> <p>8 And so for Greater Minnesota, so rural Minnesota,</p> <p>9 Greater Minnesota districts and with postsecondary</p> <p>10 institutions near them, it was a bigger deal for</p> <p>11 them. And at the time, you know, geographically</p> <p>12 diverse DFL Caucus.</p> <p>13 Q. And just for clarity, the committee you were sent</p> <p>14 to, was -- is it just called the education</p> <p>15 committee?</p> <p>16 A. No.</p> <p>17 Q. What was the name of it?</p> <p>18 A. There were multiple committees.</p> <p>19 Q. Okay.</p> <p>20 A. At the time, it was Education Finance Committee,</p> <p>21 Education Policy Committee, and I also staffed, at</p> <p>22 the time, it was the Children Family -- no.</p> <p>23 Childhood and Youth Development Committee.</p> <p>24 Q. Okay. And you were staffed with all three of</p> <p>25 those -- to all three of those committees?</p>	<p>1 A. The chairs of the committees.</p> <p>2 Q. Okay. And who were those chairs?</p> <p>3 A. The chairs that I developed a relationship with were</p> <p>4 representative -- former Representative Carlos</p> <p>5 Mariani with the House Education Committee and then</p> <p>6 Representative Paul Marquart of the Education</p> <p>7 Finance Committee.</p> <p>8 Q. Okay. Is -- you said, "the former." He's now</p> <p>9 retired?</p> <p>10 A. He's no longer a representative.</p> <p>11 Q. And when did he leave?</p> <p>12 A. After 2022, yeah.</p> <p>13 Q. Okay. So before the time of the current amendment</p> <p>14 that we're talking about in this lawsuit?</p> <p>15 A. Before the legislation that passed.</p> <p>16 Q. Okay. What -- then the second individual you</p> <p>17 mentioned was?</p> <p>18 A. Paul Marquart.</p> <p>19 Q. And is he still serving?</p> <p>20 A. He is no longer a representative. He's commissioner</p> <p>21 of the Department of Revenue.</p> <p>22 Q. And did he have any involvement in the amendment or</p> <p>23 the activities leading up to the amendment?</p> <p>24 A. No.</p> <p>25 Q. And the first gentleman you mentioned, his name was?</p>

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<p>1 A. Carlos Mariani.</p> <p>2 Q. Okay.</p> <p>3 A. Oh, and then there's another representative I failed</p> <p>4 to remember, Representative Jim Davnie.</p> <p>5 Q. Okay. And is Davnie still serving?</p> <p>6 A. No. He retired after 2022 as well.</p> <p>7 Q. And Mariani --</p> <p>8 A. Mariani.</p> <p>9 Q. Mariani, did he have any involvement in the</p> <p>10 amendment or the efforts leading up to the</p> <p>11 amendment?</p> <p>12 A. In the amendment -- so we're speaking specifically</p> <p>13 to this last legislative session?</p> <p>14 Q. Or anything leading up to it, related amendment,</p> <p>15 similar efforts to pass the amendment, something</p> <p>16 like the amendment?</p> <p>17 A. If the language was in any bill that was passed out</p> <p>18 of the House, it would have to go back to the voting</p> <p>19 record. But I would imagine -- I would have to go</p> <p>20 back to the voting record.</p> <p>21 Q. Okay. But he was involved in the issue?</p> <p>22 A. I'm not quite sure what "involved" means.</p> <p>23 Q. Well, why don't you tell me what relationship</p> <p>24 Mariani had to the amendment or prior efforts to</p> <p>25 pass something like the amendment?</p>	<p>1 A. It's possible.</p> <p>2 Q. And when would those have been?</p> <p>3 A. I don't know, 2022 or '21 or '20. I'm just</p> <p>4 remembering the years that I was back because I</p> <p>5 wasn't in my role in 2019 in the last however many</p> <p>6 years I've been there. It would have been those</p> <p>7 years, but I will say no specific conversation</p> <p>8 stands out to me in talking to him in over those</p> <p>9 three years.</p> <p>10 Q. When you say, "no conversation stands out," does</p> <p>11 that mean you do remember some specific</p> <p>12 conversations?</p> <p>13 A. About other proposals.</p> <p>14 Q. Okay. Other proposals that are similar to the</p> <p>15 amendment?</p> <p>16 A. Just proposals in general. I mean, I can -- I just</p> <p>17 feel like context may be important for the level of</p> <p>18 conversation, divided government versus not divided</p> <p>19 government.</p> <p>20 Q. Sure. Go ahead and provide that context.</p> <p>21 A. I would just say under divided government, there is</p> <p>22 more conversation in detail about proposals that</p> <p>23 people feel are priority shared by both -- both</p> <p>24 parties that are a divided government. And so I</p> <p>25 don't recall detailed conversations in that '20 to</p>
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<p>1 A. He may or may not have voted for it on the floor.</p> <p>2 And I also just don't remember what his committee</p> <p>3 membership was. It was a period of time where I was</p> <p>4 out of the Department of Education.</p> <p>5 Q. And did you ever have any conversations with him</p> <p>6 about the amendment or the issues related to the</p> <p>7 amendment?</p> <p>8 A. No.</p> <p>9 Q. Did you have any sense of what his position would</p> <p>10 have been on the amendment or issues like the</p> <p>11 amendment?</p> <p>12 A. I would have to go and check his voting record.</p> <p>13 Q. Okay. What about -- was it Davnie?</p> <p>14 A. Davnie.</p> <p>15 Q. Did he have any involvement, to your knowledge, in</p> <p>16 the amendment or prior efforts to pass similar</p> <p>17 legislation?</p> <p>18 A. He was the House Education Finance Chair, so as the</p> <p>19 chair of one of the committees that would have</p> <p>20 passed omnibus bills, to that extent yes.</p> <p>21 Q. Okay. Did you ever have any conversations with him</p> <p>22 about the amendment or prior efforts to pass the</p> <p>23 amendment?</p> <p>24 A. I don't recall.</p> <p>25 Q. It's possible you did?</p>	<p>1 '22 period around many policy proposals just in</p> <p>2 general --</p> <p>3 Q. Okay.</p> <p>4 A. -- compared to last session.</p> <p>5 Q. Okay. Well, I'll come back to that. While you were</p> <p>6 on the DFL Caucus, did you develop any relationships</p> <p>7 that became relevant to the amendment or the issue</p> <p>8 that the amendment addresses?</p> <p>9 A. I'm sorry. Say that again. When I was in the DFL</p> <p>10 Caucus?</p> <p>11 Q. Right.</p> <p>12 A. No.</p> <p>13 Q. Okay. And do you remember having any conversations</p> <p>14 during that time about the amendment or issues</p> <p>15 similar to the amendment?</p> <p>16 A. When I was in the DFL Caucus?</p> <p>17 Q. Correct.</p> <p>18 A. No.</p> <p>19 Q. You hesitate. Why?</p> <p>20 A. I just wasn't aware of, like, the issue.</p> <p>21 Q. Okay. You weren't aware of the issue at that time?</p> <p>22 A. Yeah. I mean, it just like -- it wasn't -- it never</p> <p>23 came before us.</p> <p>24 Q. Okay. And that was the entire time you were on</p> <p>25 the -- with the caucus?</p>

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<p>1 A. Correct.</p> <p>2 Q. After the caucus, where did you go?</p> <p>3 A. I went to the Minnesota Department of Education.</p> <p>4 Q. And what year was that?</p> <p>5 A. End of 2014.</p> <p>6 Q. Okay. And you were there for how long?</p> <p>7 A. Three years and nine months.</p> <p>8 Q. Okay. And what inspired your interest in that job?</p> <p>9 A. I was recruited to be there.</p> <p>10 Q. Who recruited you there?</p> <p>11 A. The commissioner of education.</p> <p>12 Q. Who was that?</p> <p>13 A. Brenda Cassellius.</p> <p>14 Q. Can you spell that?</p> <p>15 A. Brenda Cassellius.</p> <p>16 Q. And her last name, can you spell that?</p> <p>17 A. Cassellius, C-a-s-s-e-l-l-i-u-s.</p> <p>18 Q. Okay. And had you worked with her before she</p> <p>19 started recruiting you?</p> <p>20 A. Yes.</p> <p>21 Q. In what capacity?</p> <p>22 A. As she was commissioner of education, and I was a</p> <p>23 caucus researcher, and so as partners in developing</p> <p>24 legislation from different parties we -- not</p> <p>25 political parties, but different just actors, we</p>	<p>1 similar issues?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And do you recall when those first -- that</p> <p>4 issue -- those issues first arose?</p> <p>5 A. Yes, yes.</p> <p>6 Q. When was that?</p> <p>7 A. I believe it was 2016 or '17.</p> <p>8 Q. Okay. And in what context were the issues?</p> <p>9 A. My -- my understanding of the issue.</p> <p>10 Q. And what was your understanding of the issue at that</p> <p>11 time?</p> <p>12 A. Well, I think you asked two questions. Did I miss</p> <p>13 the first question when I tried to --</p> <p>14 Q. Well, I guess my question now is what was -- what</p> <p>15 did you understand that issue to be?</p> <p>16 A. My understanding of the issue was that there were</p> <p>17 concerns raised around students attending PSEO</p> <p>18 courses at certain higher education institutions and</p> <p>19 having to take an admissions process that had a</p> <p>20 religious framing to it. That's how I understood</p> <p>21 the issue at a time.</p> <p>22 Q. Do you remember how it arose?</p> <p>23 A. I believe staff reached out and put the issue in</p> <p>24 front of me.</p> <p>25 Q. And do you remember what your reaction was?</p>
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<p>1 interacted in certain spaces.</p> <p>2 Q. So how did she reach out to you about the job?</p> <p>3 A. Directly and through the staff.</p> <p>4 Q. And did you accept immediately? Was there a process</p> <p>5 of applying?</p> <p>6 A. I did not accept immediately and kind of a process.</p> <p>7 Q. What was that process?</p> <p>8 A. Just some conversations with the commissioner and</p> <p>9 staff.</p> <p>10 Q. Did you interview with anyone in the office?</p> <p>11 A. No, no formal interview.</p> <p>12 Q. And what were your major responsibilities during the</p> <p>13 time -- that first time as MDE Director of</p> <p>14 Government Relations?</p> <p>15 A. Gosh, represent the Department at the legislature,</p> <p>16 helped develop governor's legislative proposals, and</p> <p>17 track state and federal legislation and sometimes</p> <p>18 provide just opinions on how to implement statutes.</p> <p>19 Q. While you were there, did you personally work on or</p> <p>20 advise on any issues regarding PSEO?</p> <p>21 A. Yes.</p> <p>22 Q. And do you remember what those issues were?</p> <p>23 A. A range of issues for PSEO. We had a range of</p> <p>24 legislative proposals.</p> <p>25 Q. Okay. Were any of them related to the amendment or</p>	<p>1 A. My reaction was a standard reaction of, I need to</p> <p>2 analyze the issue and provide advice.</p> <p>3 Q. And do you remember what advice you provided at that</p> <p>4 time?</p> <p>5 A. I believe I said that -- that, in my opinion, the --</p> <p>6 as the issue was laid out to me, that religious</p> <p>7 framing in an admissions process would not be</p> <p>8 allowable under statute.</p> <p>9 Q. And did you -- did anyone counter that conclusion?</p> <p>10 A. Yes.</p> <p>11 Q. And do you remember who?</p> <p>12 A. The institutions.</p> <p>13 Q. What do you mean, "the institution" -- oh, the --</p> <p>14 A. The higher-ed institutions.</p> <p>15 Q. Okay.</p> <p>16 A. And their -- and their counsel.</p> <p>17 Q. And were there internal discussions at MDE about</p> <p>18 that issue then?</p> <p>19 A. Yes.</p> <p>20 Q. And what was the tenor of those discussions?</p> <p>21 A. Trying to ascertain if parameters around admissions,</p> <p>22 religious admissions tests -- just for lack of</p> <p>23 better phrasing -- admissions tests were allowable</p> <p>24 or not and whether administrative decisions could</p> <p>25 resolve that matter.</p>

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<p>1 Q. And was the conclusion that MDE came to in those</p> <p>2 discussions?</p> <p>3 A. That we would have conversations with the</p> <p>4 institution. I can't remember if it was University</p> <p>5 of Northwestern or Crown College -- I just can't</p> <p>6 remember, I think one or the other -- and to consult</p> <p>7 with the Attorney General's Office.</p> <p>8 Q. Okay. And what was the ultimate decision that came</p> <p>9 out about whether MDE had control or influence over</p> <p>10 religious admissions decisions?</p> <p>11 A. I think the result was is that we had to pursue</p> <p>12 legislation if that was the route that we -- that we</p> <p>13 thought was the right route to go.</p> <p>14 Q. And during that first time that you were at MDE as</p> <p>15 the director of government relations, did the</p> <p>16 Department pursue any legislation on this issue?</p> <p>17 A. No.</p> <p>18 Q. Okay. Did it internally propose any legislation?</p> <p>19 A. By the time I left, I cannot recall. I left at -- I</p> <p>20 left in August of 2018.</p> <p>21 Q. Okay.</p> <p>22 A. So I cannot recall if that was -- was there.</p> <p>23 Q. And had -- were there ongoing discussions at the</p> <p>24 time that you left about potential legislative</p> <p>25 proposals?</p>	<p>1 have made sure that it got into any resulting --</p> <p>2 Q. Correct.</p> <p>3 A. -- platform from the administration, from the</p> <p>4 Department? I think that would have started from</p> <p>5 the division overseeing PSEO.</p> <p>6 Q. And do you remember who was heading that at the</p> <p>7 time?</p> <p>8 A. I believe that it was Paula Palmer.</p> <p>9 Q. You said in August 2018 you left MDE?</p> <p>10 A. Yes.</p> <p>11 Q. And you went where?</p> <p>12 A. To Education of Minnesota.</p> <p>13 Q. What's Education of Minnesota?</p> <p>14 A. They are the public teacher's union in the state of</p> <p>15 Minnesota.</p> <p>16 Q. And what drew you there?</p> <p>17 A. They had an opportunity to -- to work in their legal</p> <p>18 department, and I felt that that was the -- an</p> <p>19 appropriate move at the time.</p> <p>20 Q. You got sucked back into being a lawyer? What was</p> <p>21 your -- what was your major responsibility?</p> <p>22 A. So there -- the major responsibilities in the legal</p> <p>23 department that I fulfilled were representing</p> <p>24 teacher clients and any legal issues they may or may</p> <p>25 have and providing advice where the -- where there</p>
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<p>1 A. In the context of the conclusion was we did not have</p> <p>2 the necessary administrative authority at the time.</p> <p>3 Q. Okay. At the -- as far as you're aware, before you</p> <p>4 left, was anyone actively thinking about</p> <p>5 legislation, strategizing about legislation, or</p> <p>6 anything like that?</p> <p>7 A. It's possible.</p> <p>8 Q. Okay. But do you have any recollection?</p> <p>9 A. I just -- I just don't remember about the -- I just</p> <p>10 can't recall a specific conversation about that in</p> <p>11 the time, like, the remaining time in 2018 that I</p> <p>12 was there.</p> <p>13 Q. At the time the issue came up and through the time</p> <p>14 you had discussions with the Attorney General, did</p> <p>15 you feel like there was extensive discussion that</p> <p>16 followed that, or did the issue die out?</p> <p>17 A. I will conjecture that there was discussion because</p> <p>18 I know that there was a resulting legislative</p> <p>19 proposal. I can't remember if 2019 was the first</p> <p>20 year or 2020.</p> <p>21 Q. Okay. And who -- to the extent you know, who at MDE</p> <p>22 would most likely have been the person who would</p> <p>23 have spearheaded any efforts that were happening</p> <p>24 during your first period of time at MDE?</p> <p>25 A. Who would have put the proposals forward and would</p>	<p>1 was advice sought in representing the teacher at the</p> <p>2 local district. I provided training for educators</p> <p>3 around the state. Those were the major tasks and</p> <p>4 roles.</p> <p>5 Q. Any other responsibilities that took a significant</p> <p>6 amount of your time while you were there?</p> <p>7 A. I think I served on, like, an elections committee.</p> <p>8 So unions have election procedures for local and</p> <p>9 statewide, so I helped provide legal assistance in</p> <p>10 that space.</p> <p>11 Q. And on the legal issues you were advising on, were</p> <p>12 those new issues for you? You were kind of starting</p> <p>13 from ground zero?</p> <p>14 A. It was labor and employment, which I did not have a</p> <p>15 whole lot of familiar -- familiarity with before</p> <p>16 that.</p> <p>17 Q. While you were at Education Minnesota, did you work</p> <p>18 on anything PSEO related?</p> <p>19 A. No.</p> <p>20 Q. Do you know if the union took a position on any</p> <p>21 PSEO-related issues?</p> <p>22 A. I do not recall any formal positions.</p> <p>23 Q. Did you work on any issues that involved private</p> <p>24 religious schools --</p> <p>25 A. No.</p>

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<p>1 Q. -- while you were at the Minnesota Education --</p> <p>2 Education Minnesota, right?</p> <p>3 A. Correct.</p> <p>4 Q. As far as you know, while you were there, did</p> <p>5 Education Minnesota take any positions on issues</p> <p>6 concerning religious educational institutions?</p> <p>7 A. I was not aware of any formal positions.</p> <p>8 Q. Okay. And are you aware of anyone at Education</p> <p>9 Minnesota who was discussing issues around religious</p> <p>10 institutions of education?</p> <p>11 A. I was not aware of that.</p> <p>12 Q. Have you maintained connections with anyone with</p> <p>13 whom you worked at Education Minnesota?</p> <p>14 A. Yes.</p> <p>15 Q. And with whom?</p> <p>16 A. With the -- with the lobbyists. They operate in the</p> <p>17 same sphere as me and then with some people in the</p> <p>18 legal department who provide opinions.</p> <p>19 Q. And since you left, have you worked with any of</p> <p>20 those issues -- any of those individuals on</p> <p>21 PSEO-related issues?</p> <p>22 A. Not that I recall specifically. It's possible on</p> <p>23 some -- some smaller PSEO issues around when a</p> <p>24 student could withdraw from a course or enter a</p> <p>25 course. I think that's one proposal that maybe they</p>	<p>1 to when you came back?</p> <p>2 A. Yes.</p> <p>3 Q. And how long were you in the -- the initial role you</p> <p>4 went to MDE for? You said you went back and you --</p> <p>5 you applied for a lower position?</p> <p>6 A. At Department of -- at Department of Human Services.</p> <p>7 Q. Oh, at Department of Human Services?</p> <p>8 A. And I was loaned over.</p> <p>9 Q. Got it. What were your responsibilities at</p> <p>10 Department of Human Services?</p> <p>11 A. I did not serve there for more than three hours of</p> <p>12 training.</p> <p>13 Q. Okay.</p> <p>14 A. It was a very --</p> <p>15 Q. It literally happened that quickly?</p> <p>16 A. Yeah.</p> <p>17 Q. Then you were asked to fill the interim position?</p> <p>18 A. Correct.</p> <p>19 Q. How long were you in the interim role?</p> <p>20 A. I believe I was there from February, whatever,</p> <p>21 middle of February till June, so how many months is</p> <p>22 that? Four months.</p> <p>23 Q. Okay. And then how did you move from being interim</p> <p>24 to permanent?</p> <p>25 A. I was invited to take on the role permanently.</p>
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<p>1 had some small opinion on. But I can't recall any</p> <p>2 specific conversations.</p> <p>3 Q. And have you worked with any of those individuals</p> <p>4 since you left on issues regarding religious</p> <p>5 schools?</p> <p>6 A. No.</p> <p>7 Q. Why did you leave Education Minnesota?</p> <p>8 A. I no longer wanted to practice law.</p> <p>9 Q. Okay. Any other reasons?</p> <p>10 A. No.</p> <p>11 Q. Did Commissioner Jett ever have connections to</p> <p>12 Education Minnesota?</p> <p>13 A. I do not know.</p> <p>14 Q. And how did you end up coming back to MDE?</p> <p>15 A. I applied for a similar role to what I had, a step</p> <p>16 down, at the Department of Human Services and was</p> <p>17 lucky enough to get the role. And then around the</p> <p>18 same time, my former role, so my successor, left</p> <p>19 that role. And that role came open right in the</p> <p>20 middle of the 2020 legislative session or the</p> <p>21 beginning of it. And so I was asked to fulfill this</p> <p>22 role on an interim basis.</p> <p>23 Q. Who was the predecessor?</p> <p>24 A. Kate Lynne Snyder.</p> <p>25 Q. And did she fill the entire time from when you left</p>	<p>1 Q. And when does -- when did the legislative session</p> <p>2 start in 2020?</p> <p>3 A. Maybe started end of January. I came on after</p> <p>4 legislative session started, so we'll put probably</p> <p>5 end of January.</p> <p>6 Q. So you were involved immediately in live legislative</p> <p>7 issues?</p> <p>8 A. Yeah.</p> <p>9 Q. Who did you report to when you came back to MDE?</p> <p>10 A. I reported to a -- what was her role? She was the</p> <p>11 -- I can't remember if it was an assistant</p> <p>12 commissioner or director of external communications.</p> <p>13 Q. And who did she report to?</p> <p>14 A. I believe she -- I believe, she reported to either</p> <p>15 the deputy commissioner or the commissioner.</p> <p>16 Q. And who was the commissioner at that time?</p> <p>17 A. Mary Cathryn Ricker.</p> <p>18 Q. And who was the deputy commissioner?</p> <p>19 A. I can't remember who the deputy commissioner was at</p> <p>20 that exact time.</p> <p>21 Q. Did you have direct interactions with the</p> <p>22 commissioner or the deputy commissioner?</p> <p>23 A. Yes.</p> <p>24 Q. Has that chain of command stayed similar, or has it</p> <p>25 changed?</p>

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<p>1 A. It's changed.</p> <p>2 Q. How has it changed over time?</p> <p>3 A. That director of external relations -- that position</p> <p>4 was eliminated. And the -- when I was brought on to</p> <p>5 serve as interim, after interim to permanent, my</p> <p>6 role was then formally made as a director role. And</p> <p>7 then I directly reported to the deputy commissioner.</p> <p>8 Q. Okay. And who is the deputy commissioner now?</p> <p>9 A. Stephanie Graff.</p> <p>10 Q. Has she be the deputy commissioner since you started</p> <p>11 reporting? Became a --</p> <p>12 A. No.</p> <p>13 Q. Okay. There's been other people in that role?</p> <p>14 A. Correct.</p> <p>15 Q. How many?</p> <p>16 A. I think two others.</p> <p>17 Q. Who are they?</p> <p>18 A. Heather Mueller and Stephanie Burrage. And I</p> <p>19 apologize. I also reported to a chief of staff for</p> <p>20 a short period of time.</p> <p>21 Q. And you said your current supervisor is Stephanie?</p> <p>22 A. Graff.</p> <p>23 Q. Graff?</p> <p>24 A. G-r-a-f-f.</p> <p>25 Q. How then long has Commissioner Jett been in his</p>	<p>1 what might have been happening during that time</p> <p>2 period on issues similar to those in the amendment?</p> <p>3 A. Can you clarify? Like, at any time did I go back</p> <p>4 and talk?</p> <p>5 Q. In preparing for this deposition.</p> <p>6 A. Oh, no. Other that just discussions around the fact</p> <p>7 that this deposition was happening.</p> <p>8 Q. Okay. And were those discussions with counsel or</p> <p>9 someone else?</p> <p>10 A. With counsel.</p> <p>11 Q. Okay. And did you have discussions with anyone else</p> <p>12 about preparing for the deposition?</p> <p>13 A. No.</p> <p>14 Q. On any topic?</p> <p>15 A. Related to -- I mean, just we've made leadership</p> <p>16 and -- not substance. So procedure. We've had</p> <p>17 inquiries from the legislature of just where's the</p> <p>18 lawsuit at, and we said it's in discovery phase.</p> <p>19 Q. So you didn't talk to anyone about the discussions</p> <p>20 that might have been happening at MDE about the</p> <p>21 amendment or similar issues?</p> <p>22 A. Outside of counsel, no.</p> <p>23 Q. Okay.</p> <p>24 A. And substantively. I mean, I've told people we're</p> <p>25 part of discovery process and I have a deposition.</p>
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<p>1 role?</p> <p>2 A. I believe formally since January of last year.</p> <p>3 Q. January of 2023?</p> <p>4 A. Yes.</p> <p>5 Q. And who was in the role before him?</p> <p>6 A. Heather Mueller.</p> <p>7 MR. BAXTER: It's been an hour. Do you</p> <p>8 want to take a break now?</p> <p>9 THE WITNESS: Sure.</p> <p>10 MR. BAXTER: Okay. Let's do that.</p> <p>11 (A recess was had from 10:28 a.m. until</p> <p>12 10:41 a.m.)</p> <p>13 BY MR. BAXTER:</p> <p>14 Q. Mr. Unni, prior to the break, we spent a significant</p> <p>15 amount of time talking about your time at MDE from</p> <p>16 2014 to 2018, correct?</p> <p>17 A. Correct.</p> <p>18 Q. And we talked about any efforts during that time to</p> <p>19 address issues like those addressed in the</p> <p>20 amendment; is that correct?</p> <p>21 A. Correct.</p> <p>22 Q. And on that issue, you know that you're testifying</p> <p>23 on behalf of MDE, correct?</p> <p>24 A. Correct.</p> <p>25 Q. And did you go back and talk to anyone at MDE about</p>	<p>1 Q. And besides counsel, is there anyone at MDE now who</p> <p>2 would have better knowledge of what discussions were</p> <p>3 happening from 2014 to 2018 around this issue?</p> <p>4 A. Better knowledge --</p> <p>5 Q. Than you?</p> <p>6 A. In terms of just any workings or like any -- you</p> <p>7 mean like any facet of the issue?</p> <p>8 Q. Right.</p> <p>9 A. Any particular facet. Yes, I'm sure.</p> <p>10 Q. And who would that be?</p> <p>11 A. Division of staff who oversee the PSEO program.</p> <p>12 Q. But you didn't talk to any of them about that?</p> <p>13 A. No.</p> <p>14 Q. And you said you didn't talk to any of those</p> <p>15 division staff to prepare for this deposition?</p> <p>16 A. No.</p> <p>17 Q. You came back to MDE in February 2020; is that</p> <p>18 correct?</p> <p>19 A. Correct.</p> <p>20 Q. Okay. And when did you first become aware of the</p> <p>21 issue that was addressed by -- ultimately addressed</p> <p>22 by the amendment?</p> <p>23 A. Of the issue in general?</p> <p>24 Q. Yes.</p> <p>25 A. Either in 2018 or slightly before then.</p>

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<p>1 Q. Okay. In 2018 while you were at MDE?</p> <p>2 A. Correct. I believe we covered this --</p> <p>3 Q. Right.</p> <p>4 A. -- in the prior portion.</p> <p>5 Q. And when you came back to MDE, when did the issue</p> <p>6 first come up?</p> <p>7 A. Oh, I -- if it was in the bill, which would have</p> <p>8 already been crafted -- so an omnibus bill, omnibus</p> <p>9 policy bill, I imagine, it would have been in -- if</p> <p>10 it was in there, and I have not gone back and taken</p> <p>11 a look at prior year's legislation, it would have</p> <p>12 been in there. And I cannot recall. Because if you</p> <p>13 remember the spring of 2020 was a tumultuous time</p> <p>14 for everybody on the planet. I cannot recall when I</p> <p>15 first became acquainted with the proposal or the</p> <p>16 bill, if it was in the bill.</p> <p>17 Q. Okay. Did you -- are you aware of any prior</p> <p>18 legislative proposals to address the issue that was</p> <p>19 ultimately addressed in the amendment?</p> <p>20 A. I cannot say for sure, but if it were, it was</p> <p>21 possible it was in the 2019 when I was not at the</p> <p>22 Department of Education.</p> <p>23 Q. Okay. And why did you think that was a possibility?</p> <p>24 A. My guess is because in 2018, when we were -- when we</p> <p>25 concluded that it was not -- and within our</p>	<p>1 to the Postsecondary Enrollment Options Act.</p> <p>2 Q. And this is one of the topics that you have been</p> <p>3 designated to testify about, correct?</p> <p>4 A. Yes.</p> <p>5 Q. And other than conversations with counsel, am I</p> <p>6 correct that you've not talked to anyone to prepare</p> <p>7 to testify for this topic?</p> <p>8 A. Correct.</p> <p>9 Q. Did you review documents to prepare for this topic?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. What were those document?</p> <p>12 A. I believe they were emails.</p> <p>13 Q. Okay. Emails from whom?</p> <p>14 A. From department staff.</p> <p>15 Q. So --</p> <p>16 A. And -- and I believe they included emails with</p> <p>17 representatives from Crown College and University of</p> <p>18 Northwestern.</p> <p>19 Q. And what was the nature of those emails?</p> <p>20 A. They were regarding -- the ones with the</p> <p>21 representatives from Crown College and University of</p> <p>22 Northwestern were around the legislative proposal,</p> <p>23 this last legislative session, and I think the</p> <p>24 implementation of it if it were going to go into</p> <p>25 effect.</p>
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<p>1 administrative authority, my guess is if what</p> <p>2 resulted later was a legislative ask that it's</p> <p>3 possible that the next year it would have been</p> <p>4 proposed. But I have not gone back and looked at</p> <p>5 the bill from 2019.</p> <p>6 Q. Why did MDE at that time conclude that it was not</p> <p>7 within its authority to take the action it was being</p> <p>8 discussed?</p> <p>9 A. On the advice of counsel --</p> <p>10 MR. TIMMERMAN: Yeah, I'll object to</p> <p>11 the extent that it calls for attorney-client</p> <p>12 privileged information. I don't know that</p> <p>13 he can answer that without disclosing.</p> <p>14 BY MR. BAXTER:</p> <p>15 Q. Is there anything you can answer without disclosing</p> <p>16 conversations with your attorney?</p> <p>17 A. No.</p> <p>18 Q. Could you -- you have in front of you the document</p> <p>19 marked Exhibit 1, correct?</p> <p>20 A. Yes.</p> <p>21 Q. Can you flip to page 3 of that? And the third</p> <p>22 topic, could you read that?</p> <p>23 A. "The Department's involvement in and discussions</p> <p>24 about previous efforts to pass legislation or</p> <p>25 regulations similar to the May 24th, 2023, amendment</p>	<p>1 Q. And I'm asking specifically about what's listed in</p> <p>2 Number 3 as previous efforts to pass legislation --</p> <p>3 A. Oh, okay.</p> <p>4 Q. -- similar to the amendment that ultimately passed.</p> <p>5 Did you do anything to prepare to talk about that</p> <p>6 issue?</p> <p>7 A. Oh, to pass legislation. So the 2018 and whatever</p> <p>8 before in my prior time emails were about not -- not</p> <p>9 the legislation. Yeah. I just kind of reviewed my,</p> <p>10 like, memory and familiarity with the prior efforts</p> <p>11 in '21 and '22.</p> <p>12 Q. Okay. So you didn't do anything to inquire about</p> <p>13 efforts that may have been made in 2019 or '20?</p> <p>14 A. 2019 I was not at the Department, so I did not look</p> <p>15 at that.</p> <p>16 Q. But you are here to testify about what happened at</p> <p>17 the Department during that time, correct?</p> <p>18 A. It appears, yes.</p> <p>19 Q. Okay. And you didn't do anything to prepare for</p> <p>20 that?</p> <p>21 A. Not for 2019.</p> <p>22 Q. Okay. And what about for 2020?</p> <p>23 A. Just from memory.</p> <p>24 Q. Okay. And what's in your memory from 2020?</p> <p>25 A. My memory is that I know I said it was probably in</p>

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<p>1 the bill, and I'm guessing it was, but I did not</p> <p>2 recall any specific in-depth conversation in the</p> <p>3 time I was there around the particular proposal.</p> <p>4 Q. Okay. And you didn't talk to anyone to kind of</p> <p>5 refresh your recollection about that?</p> <p>6 A. No, I did not.</p> <p>7 Q. When you came back to MDE, you said the proposal</p> <p>8 already would have been in the legislation; is that</p> <p>9 correct?</p> <p>10 A. Yes.</p> <p>11 Q. And do you have any knowledge of who -- how that</p> <p>12 legislation was introduced?</p> <p>13 A. I can talk about general practice.</p> <p>14 Q. Okay.</p> <p>15 A. And so in general practice, the divisions -- so</p> <p>16 different divisions that oversee different areas</p> <p>17 come up with proposals that they feel need to have a</p> <p>18 legislative fix or statutory fix. They propose them</p> <p>19 through our process where government relations</p> <p>20 solicits the -- my current division, government</p> <p>21 relations, solicits the proposals. We aggregate</p> <p>22 them. We bring them to leadership to make the</p> <p>23 decisions, and then the decisions about what will</p> <p>24 move forward is submitted to -- back to the</p> <p>25 divisions to then develop them. The bills are then</p>	<p>1 or submitted before you were there?</p> <p>2 A. If it -- I believe -- I believe it was submitted in</p> <p>3 2019, and even if it was submitted in the 2020</p> <p>4 session for the first time, that would have been</p> <p>5 before I returned.</p> <p>6 Q. Okay.</p> <p>7 A. Because I left before it was proposed formally in</p> <p>8 the -- before it would have been proposed in 2018</p> <p>9 leading up to 2019.</p> <p>10 Q. So when you say it came from that division, are you</p> <p>11 speaking from personal knowledge because you spoke</p> <p>12 to someone else and learned that, or that's way the</p> <p>13 process normally would have worked?</p> <p>14 A. That's the way the process normally works. That's</p> <p>15 the division that oversees that issue.</p> <p>16 Q. And did you talk to anyone to confirm that's that</p> <p>17 what happened in this instance.</p> <p>18 A. I have consulted, in the past before this legal</p> <p>19 issue arose, with that division -- or consulted the</p> <p>20 submission documents that we have that that division</p> <p>21 had submitted it in recent years, and they would</p> <p>22 have submitted it in the past.</p> <p>23 Q. Okay. So could you give me a little more detail on</p> <p>24 that? When did you look back to see what other</p> <p>25 proposals there were and where they had come from?</p>
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<p>1 drafted and then submitted to the legislature for</p> <p>2 authorship. We usually get authorship from the</p> <p>3 legislative committee chairs, whichever party has</p> <p>4 the chairs. And then they bring the -- that they</p> <p>5 introduced on our behalf, and at the legislature, we</p> <p>6 bring the bills.</p> <p>7 Q. And you speak about divisions. You're referring to</p> <p>8 divisions with the MDE; is that correct?</p> <p>9 A. Correct.</p> <p>10 Q. And do you know which division originated the</p> <p>11 proposal for the legislation that initiated the --</p> <p>12 A. Yes, the Office of Career and College Success.</p> <p>13 Q. Thank you. And do you know who within that division</p> <p>14 raised that proposal?</p> <p>15 A. I don't know specifically who all of the people who</p> <p>16 would have, but I know the director at the time when</p> <p>17 it was originally proposed was Paula Palmer.</p> <p>18 Q. Okay.</p> <p>19 A. It was the director. I -- I believe the individual</p> <p>20 who oversees PSEO is Beth Barsness.</p> <p>21 Q. And how did you know that the proposal arose with</p> <p>22 that division?</p> <p>23 A. But that is the division that submitted it to us</p> <p>24 through our normal process.</p> <p>25 Q. Okay. But was that submitted while you were there</p>	<p>1 A. From my recollection, I know specifically in 2021,</p> <p>2 we have documents that show that that division</p> <p>3 submitted this proposal for the legislative -- for</p> <p>4 the legislative bill and would have been the same</p> <p>5 for 2022 and 2023.</p> <p>6 Q. Okay. But you don't have any direct evidence how it</p> <p>7 happened in 2020?</p> <p>8 A. I'm sure there is -- I'm sure there's, you know,</p> <p>9 some -- I'm just trying to think. I was not back at</p> <p>10 the Department, so I did not have active email or</p> <p>11 active access to those files at that time --</p> <p>12 Q. Okay.</p> <p>13 A. -- for the submission process.</p> <p>14 Q. But you think there would be a document trail</p> <p>15 showing which division your proposal originated in?</p> <p>16 A. I would imagine so.</p> <p>17 Q. And did you review those documents in preparation</p> <p>18 for this deposition or in otherwise --</p> <p>19 A. No, leading up to 2020, no.</p> <p>20 Q. And just remember to let me finish my sentences</p> <p>21 before you go. And did you talk to anyone from</p> <p>22 those divisions about the 2020 proposal?</p> <p>23 A. No.</p> <p>24 Q. What became of the 2020 proposal once you came into</p> <p>25 -- back into the position?</p>

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<p>1 A. 2020 proposal would have been in the bill that would</p> <p>2 have been already submitted to the legislature and</p> <p>3 already on its way to being heard.</p> <p>4 Q. Would that have been a house bill or a senate bill?</p> <p>5 A. Both.</p> <p>6 Q. Both. Okay. Simultaneous introduction in both</p> <p>7 houses?</p> <p>8 A. Correct.</p> <p>9 Q. And what -- what do you recall about the process?</p> <p>10 A. The process in 2020 was not the normal process.</p> <p>11 Once the pandemic hit and everybody went remote, all</p> <p>12 focus went on emergency solutions.</p> <p>13 Q. Do you recall any specific discussions about the</p> <p>14 proposed legislation?</p> <p>15 A. In 2020, no.</p> <p>16 Q. Okay. And did you have any conversations with</p> <p>17 anyone that you recall about the proposed</p> <p>18 legislation?</p> <p>19 A. In 2020, no.</p> <p>20 Q. And have you subsequently had any discussions with</p> <p>21 anyone about the 2020 legislation?</p> <p>22 A. Specifically about 2020 in any substantive way, no.</p> <p>23 Q. After the 2020 session, when did the topic next come</p> <p>24 up?</p> <p>25 A. Leading up to the 2021 session.</p>	<p>1 Q. In the normal course, there would be?</p> <p>2 A. Normal course, yes.</p> <p>3 Q. And did you review any of those documents in</p> <p>4 preparation for this deposition?</p> <p>5 A. No.</p> <p>6 Q. Did you ever gather any of those documents to give</p> <p>7 to counsel?</p> <p>8 A. I am not sure if I had -- if I had received those</p> <p>9 emails.</p> <p>10 Q. Okay. And what's your first recollection of --</p> <p>11 well, was there -- were there any -- what would have</p> <p>12 happened after that proposal surfaced in late summer</p> <p>13 or early fall of 2020?</p> <p>14 A. It would have -- we aggregate all our proposals</p> <p>15 together, and then we bring them to our executive</p> <p>16 committee to -- to review and then to approve for</p> <p>17 further development. And during those</p> <p>18 conversations, many proposals are reviewed in 30</p> <p>19 seconds to a minute. And several proposals take</p> <p>20 half an hour. I believe that this proposal did not</p> <p>21 take very long as it had been proposed before, which</p> <p>22 is very standard for proposals that have been</p> <p>23 proposed before.</p> <p>24 Q. Okay. And do you recall who was in that meeting?</p> <p>25 A. It would have been fall of 2020, so it would have</p>
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<p>1 Q. Okay. And when would that have been, about?</p> <p>2 A. Late summer, early fall.</p> <p>3 Q. And do you have any speculation how that came?</p> <p>4 A. Through the standard legislative submission process.</p> <p>5 Q. Okay. Was the first time you heard about it when</p> <p>6 you received something from the division?</p> <p>7 A. Yes.</p> <p>8 Q. And you hadn't had any prior discussion about it</p> <p>9 after the 2020 session?</p> <p>10 A. No.</p> <p>11 Q. And did you have any specific recollection of how it</p> <p>12 came up, or you're just remembering from the</p> <p>13 process?</p> <p>14 A. From the process -- from the -- so the process</p> <p>15 works, not through, like, a conversation process.</p> <p>16 Through emails or through meetings, we remind</p> <p>17 people, this is the submission process, and they</p> <p>18 submit it to you.</p> <p>19 Q. And would that proposal have come to you through</p> <p>20 email?</p> <p>21 A. Either that or it may have not come directly to me.</p> <p>22 It may have come to other staff members.</p> <p>23 Q. But there would -- there should be emails about that</p> <p>24 proposal?</p> <p>25 A. Possibly, yes.</p>	<p>1 been Commissioner Ricker and the assistant</p> <p>2 commissioners and government relations team.</p> <p>3 Q. Okay. Was counsel for MDE in those meetings?</p> <p>4 A. I believe so.</p> <p>5 Q. Okay. Is that the normal course for counsel to be</p> <p>6 in those meetings?</p> <p>7 A. Yes.</p> <p>8 Q. Okay.</p> <p>9 A. Once you brought counsel on.</p> <p>10 MR. BAXTER: Okay. And counsel, are</p> <p>11 you asserting that those meetings are</p> <p>12 privileged?</p> <p>13 MR. TIMMERMAN: To the extent there was</p> <p>14 legal advice regarding proposals, yeah.</p> <p>15 BY MR. BAXTER:</p> <p>16 Q. What was the general discussion by the members of</p> <p>17 the committee, other than the lawyer, about the</p> <p>18 proposal?</p> <p>19 A. Just whether it's necessary, what are kind of, like,</p> <p>20 the nuts and bolts of the proposal. We're trying to</p> <p>21 evaluate whether this is something that should be in</p> <p>22 the administration or MDE's proposals for the</p> <p>23 following year in terms of just whatever analysis</p> <p>24 each issue deserves.</p> <p>25 Q. And do you recall what the -- the tenor of the</p>

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<p>1 conversation was, generally? Were committee members</p> <p>2 in favor the amendment? Did they have concerns</p> <p>3 about the proposal?</p> <p>4 A. My recollection is that there wasn't much</p> <p>5 discussion.</p> <p>6 Q. Okay. Do you have any specific recollection of any</p> <p>7 of the discussion other than what counsel might have</p> <p>8 said?</p> <p>9 A. I think it was that I had said we -- and this is, I</p> <p>10 think, my -- my standard reminder for committee</p> <p>11 members is this is something that we had tried</p> <p>12 administratively to see if there was a solution back</p> <p>13 in the prior administration, so under the Dayton</p> <p>14 administration found that it wasn't and that we</p> <p>15 determined that this was a -- needing legislative</p> <p>16 solution and statute. So that was kind of the</p> <p>17 background for it and that it was -- and that was</p> <p>18 generally -- the general tenor of what my</p> <p>19 contributions were in this space. And then</p> <p>20 generally, there were -- pretty much there were not</p> <p>21 many questions in terms of, like, the general</p> <p>22 course, and it was generally one of those shorter</p> <p>23 conversations around legislative proposals.</p> <p>24 Q. Any discussions around why the proposal was</p> <p>25 necessary?</p>	<p>1 A. Any test based on any protected class, like,</p> <p>2 religion or race or ethnicity.</p> <p>3 Q. Any concerns related to access based on academic</p> <p>4 performance?</p> <p>5 A. Not pertaining to this proposal. It was about the</p> <p>6 admission process based on the protected class.</p> <p>7 Q. Okay.</p> <p>8 A. There are proposals we've had over my course that</p> <p>9 are around academic performance.</p> <p>10 Q. Tell me about those proposals.</p> <p>11 A. One was around, I think, maybe 2015 or 2016 around</p> <p>12 10th-graders' access to PSEO programs and what</p> <p>13 grades they would need to have, the authority of a</p> <p>14 PSEO institution to be able to say -- to determine</p> <p>15 the student meets their minimum qualifications, one</p> <p>16 of which could be academic performance in high</p> <p>17 school, so basically, their maturity level and</p> <p>18 academic abilities.</p> <p>19 Q. And what kind of legislative proposals have come out</p> <p>20 of that concern?</p> <p>21 A. I think it was a limitation on what -- how many</p> <p>22 courses a tenth-grader could take -- PSEO courses a</p> <p>23 tenth-grader could take. And I can't remember</p> <p>24 specifically. There was one around a tenth -- or</p> <p>25 what level a PSEO institution could take academic</p>
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<p>1 MR. TIMMERMAN: I'll object on</p> <p>2 privilege grounds here. If there was a</p> <p>3 lawyer present and there was conversation</p> <p>4 regarding advice on legislative proposals,</p> <p>5 then we assert the privilege with respect to</p> <p>6 the communications -- the entire</p> <p>7 communications.</p> <p>8 BY MR. BAXTER:</p> <p>9 Q. And to be clear, I'm not asking what the lawyer</p> <p>10 said, but I'm just wondering what the reaction of</p> <p>11 the commissioners were as to the need for this</p> <p>12 legislation.</p> <p>13 A. I would say, again, it was positive that this is</p> <p>14 something that we should propose.</p> <p>15 Q. Why?</p> <p>16 A. Because it's about -- it was framed as equitable</p> <p>17 access to opportunities.</p> <p>18 Q. Meaning what?</p> <p>19 A. Meaning that all students who want to avail</p> <p>20 themselves of the opportunity should be able to.</p> <p>21 Q. And was this specifically around religious schools</p> <p>22 or increasing access for other schools as well?</p> <p>23 A. It was about making sure that access to any schools</p> <p>24 was -- any schools in this program was equitable.</p> <p>25 Q. What were the perceived barriers to access?</p>	<p>1 rigor into account. And then I think there was</p> <p>2 another around -- I think there's been proposals, I</p> <p>3 don't think from us -- discussion around what level</p> <p>4 a high school could then weight courses that are</p> <p>5 given at PSEO -- or at higher-ed institutions when</p> <p>6 they factor GPAs.</p> <p>7 Q. You mentioned concern about the level of academic</p> <p>8 rigor that schools could require of PSEO students,</p> <p>9 correct?</p> <p>10 A. No. It was PSEO student -- PSEO institutions</p> <p>11 determining the academic rigor of the courses that</p> <p>12 tenth-graders have taken to determine, are they</p> <p>13 mature enough to take a course at their own</p> <p>14 institution.</p> <p>15 Q. Have there ever been -- well, did any legislation</p> <p>16 come out of that?</p> <p>17 A. I think that there was one around that, but I was --</p> <p>18 it was, like, '15 or '16, so I can't remember</p> <p>19 specifically what the words were in that</p> <p>20 legislation. But I know we passed some legislation</p> <p>21 in '15 or '16 around limiting how many courses a</p> <p>22 tenth-grader could take.</p> <p>23 Q. Any discussions about, for example, students not</p> <p>24 being able to get into universities near them</p> <p>25 because the academic requirements were too high?</p>

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<p>1 A. There were discussions, and I can't remember if</p> <p>2 there was a proposal around -- I remember being</p> <p>3 involved in around just the different abilities of</p> <p>4 student to take a PSEO course at, like, state system</p> <p>5 institutions versus, like, private colleges. But I</p> <p>6 cannot -- I don't believe that we had -- we had a</p> <p>7 proposal in the Department bill around that topic.</p> <p>8 Q. Was that topic related to GPA standards or other</p> <p>9 academic admissions standards?</p> <p>10 A. It would have been probably a range of factors that</p> <p>11 a PSEO institution could -- could -- could take into</p> <p>12 account, but I believe that that would have been a</p> <p>13 proposal that an advocacy group or a legislator had</p> <p>14 brought forward and maybe one that we had given an</p> <p>15 opinion on.</p> <p>16 Q. Not one that MDE pursued directly?</p> <p>17 A. Not that I recall.</p> <p>18 Q. Okay. After the committee -- what was the -- was</p> <p>19 there a vote in the committee about whether to let</p> <p>20 the proposal go forward, or how does that work?</p> <p>21 A. So it's -- I'll just clarify. So it's not a</p> <p>22 committee. It's our executive committee, so it's</p> <p>23 just leadership at the time, which is changing,</p> <p>24 right? No. There's no votes. It's just kind of an</p> <p>25 overall tenor of, yes, this should go forward.</p>	<p>1 Q. Okay. And at any time, did you talk to anybody what</p> <p>2 was involved in that development process?</p> <p>3 A. I did.</p> <p>4 Q. About the -- about the process for this bill?</p> <p>5 A. About this process. It -- in leading from it 2020</p> <p>6 to 2021, I don't believe that I had -- I may have</p> <p>7 had some conversations about, just generally, like,</p> <p>8 what is your division -- like, division proposing</p> <p>9 and how are they -- how are the proposals coming</p> <p>10 along?</p> <p>11 Q. Okay.</p> <p>12 A. But at this -- at this point, if -- so normally what</p> <p>13 happens is if a proposal has been proposed before</p> <p>14 and there's no changes to it, they generally just</p> <p>15 propose the same thing again and there's no general</p> <p>16 questions about it if it's a normal one.</p> <p>17 Q. Okay. And in preparation for this deposition, did</p> <p>18 you go back and talk to anyone who might have been</p> <p>19 involved in that process?</p> <p>20 A. No.</p> <p>21 Q. Did you ask them for any documents?</p> <p>22 A. No.</p> <p>23 Q. Did anyone give you documents to review from that</p> <p>24 time period?</p> <p>25 A. From the 2020 to --</p>
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<p>1 Q. What was the conclusion on the 20 -- for the 2021</p> <p>2 session?</p> <p>3 A. That it should move forward.</p> <p>4 Q. What was the next step after that?</p> <p>5 A. Next step is going back to divisions and asking them</p> <p>6 to develop the -- the proposal further.</p> <p>7 Q. And how do they do that?</p> <p>8 A. They -- they provide -- they provide, like, what's</p> <p>9 the background of proposal? Like, what's the --</p> <p>10 like, why is it necessary? What the -- like, what</p> <p>11 is the benefit? Like, what's the purpose of it?</p> <p>12 Oh, and then they have to answer, like, is there any</p> <p>13 -- will the State spend any money or not -- any</p> <p>14 money?</p> <p>15 Q. And what do you mean, "Will the State spend any</p> <p>16 money?" Will it cost the State money?</p> <p>17 A. Right. Are we, like, asking the State to spend</p> <p>18 whatever, X amount on it.</p> <p>19 Q. And in the normal course, would there have been a</p> <p>20 lot of internal email communication in that</p> <p>21 development internal process?</p> <p>22 A. Not -- not with government relations.</p> <p>23 Q. Okay. But within the MDE itself, within the</p> <p>24 divisions?</p> <p>25 A. Possibly. It depends on the proposal.</p>	<p>1 Q. 2021.</p> <p>2 A. -- 2021 time period? No.</p> <p>3 Q. Okay. And do you remember anything specific about</p> <p>4 the language that was documented through that</p> <p>5 process?</p> <p>6 A. It would have been what we had proposed in the 2023</p> <p>7 session.</p> <p>8 Q. You think it's the exact same language that was --</p> <p>9 that would have passed?</p> <p>10 A. It's largely similar.</p> <p>11 Q. Okay.</p> <p>12 A. If -- I mean, at the least.</p> <p>13 Q. That's not --</p> <p>14 A. Let me say -- because I -- I -- there may have been</p> <p>15 -- from what we introduced in 2023 to what passed at</p> <p>16 the end, there may have been a tweak along the</p> <p>17 way --</p> <p>18 Q. Okay.</p> <p>19 A. -- in a session, but it largely would have been</p> <p>20 similar.</p> <p>21 Q. Do you remember what those tweaks would have been?</p> <p>22 A. I can't remember the specific words, but I can look</p> <p>23 at -- you know, I could look at the document from</p> <p>24 what we -- what we submitted and what we passed and</p> <p>25 probably be able to tell you quickly.</p>

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<p>1 Q. Okay. Whatever was proposed for the 2021 session,</p> <p>2 would that have been developed by the division in</p> <p>3 that post-executive review process?</p> <p>4 A. Yes, yeah.</p> <p>5 Q. And what would they do with that language once it --</p> <p>6 A. They submitted it to us.</p> <p>7 Q. When you say, "us," you mean?</p> <p>8 A. I'm sorry. Government Relations Division, and then</p> <p>9 we would send it along in the process.</p> <p>10 Q. And what would -- do you review it? Do you make</p> <p>11 your own assessment of it? Did you write a memo</p> <p>12 about it?</p> <p>13 A. Yeah. So we review it. We have the -- you know,</p> <p>14 whoever the assistant commissioner was who oversaw</p> <p>15 it, they review the language. Generally, it's</p> <p>16 pretty -- pretty -- like, just make sure that it</p> <p>17 makes sense pretty quickly. And they're reviewing,</p> <p>18 like, all of the proposals in totality, not just a</p> <p>19 single proposal. And it's usually that there may be</p> <p>20 some proposals here and there that gets individual</p> <p>21 reviews. But this one was never one that got</p> <p>22 singled out for individual review. I do remember</p> <p>23 that. And then it is -- the bill is then reviewed</p> <p>24 by multiple -- multiple channels in the Department.</p> <p>25 We do send bills past the governor's office as</p>	<p>1 involved with, no.</p> <p>2 Q. Okay. And would -- in the normal course with those</p> <p>3 communications that did happen, would they have</p> <p>4 normally been emailed or in person?</p> <p>5 A. Probably over, like, verbal conversations.</p> <p>6 Q. Okay. And when -- when the bill is sent to the</p> <p>7 governor's office, how would that be done?</p> <p>8 A. That would be done via email.</p> <p>9 Q. How about when -- with the --</p> <p>10 A. The Revisor.</p> <p>11 Q. The Revisor's Office. Thank you.</p> <p>12 A. That would be done via email.</p> <p>13 Q. Okay. Did you go back to review those emails in</p> <p>14 preparation for this deposition?</p> <p>15 A. With the Revisor's Office, I am not in charge of</p> <p>16 submitting the Revisor's Office emails. I've got --</p> <p>17 I'm usually made aware. I get the email back from</p> <p>18 the team that, "Here's the bill," and bill in</p> <p>19 totality.</p> <p>20 Q. We already clarified you were assigned to speak on</p> <p>21 behalf of MDE on this issue, right?</p> <p>22 A. Yeah.</p> <p>23 Q. So did you go back and learn how -- what was said to</p> <p>24 the Revisor's Office?</p> <p>25 A. Yeah. I mean, my familiarity with the topic didn't</p>
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<p>1 they have final sign-off on all legislative bills.</p> <p>2 And they read the bill in totality. It's usually</p> <p>3 just a policy advisor. And then they give the go</p> <p>4 ahead and then we submit through the Revisor. Or</p> <p>5 the whole time we're drafting this, we're working</p> <p>6 with the Revisor, which is a nonpartisan office in</p> <p>7 the legislature who draft bills. And then they send</p> <p>8 back to us, and we review for just making sure</p> <p>9 language is consistent with what the intent was.</p> <p>10 And then we submit to the legislative chairs for --</p> <p>11 hopefully for their authorship and introducing the</p> <p>12 legislature, and then we'd get a hearing.</p> <p>13 Q. Okay. So it sounds like there would have been</p> <p>14 communications internally at MDE reviewing the</p> <p>15 language and then some communications with the</p> <p>16 governor and then with the office. You said it was</p> <p>17 the office -- the nonpartisan office?</p> <p>18 A. Revisor's Office.</p> <p>19 Q. Revisor's Office. Would that have been</p> <p>20 communications with any outside organizations?</p> <p>21 A. No, not -- not on this proposal leading up -- during</p> <p>22 that time.</p> <p>23 Q. Okay. There were no outside interest groups</p> <p>24 reaching out to MDE about the proposal?</p> <p>25 A. In the legislative constructive process that I was</p>	<p>1 require me to, like, look at the specific emails</p> <p>2 about this. What we do is, we send a batch of</p> <p>3 proposals to the Revisor's Office, usually, like, 20</p> <p>4 to 50 proposals, and we say, "Here are -- here's the</p> <p>5 language that we have that we believe is appropriate</p> <p>6 for this proposal." Send it to the Revisor.</p> <p>7 Revisor basically puts them all together and then</p> <p>8 sends it back to us in one big bill.</p> <p>9 Q. And in that email, would there have been anything</p> <p>10 specific about the proposed amendment that we're</p> <p>11 concerned with in this case?</p> <p>12 A. In the 2020 to 2021, there would have been maybe the</p> <p>13 background document about just what -- what the</p> <p>14 purpose was of the proposal.</p> <p>15 Q. Okay. And did you go back and look at that or</p> <p>16 produce that to anyone for this lawsuit?</p> <p>17 A. I -- I cannot recall if I -- I would -- I looked at</p> <p>18 -- the last time I looked at that document was</p> <p>19 during the legislative proposal process. I did not</p> <p>20 look at it for preparation for here, because I'm</p> <p>21 very familiar with the background and purpose of the</p> <p>22 proposal.</p> <p>23 Q. What about with the communication for the governor's</p> <p>24 office? Who would have been responsible for that</p> <p>25 communication?</p>

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<p>1 A. It would have been someone on the Government</p> <p>2 Relations team, and it would have been here's a</p> <p>3 batch proposal, like here's the -- here's the</p> <p>4 document of, like, all of our proposals together or</p> <p>5 maybe, like, one article, here's for your review.</p> <p>6 Q. In preparation for this deposition, did you go back</p> <p>7 and review that document?</p> <p>8 A. No. I did not review it specifically because I know</p> <p>9 it would have been a batch proposal where it was our</p> <p>10 large bill.</p> <p>11 Q. Would there have been -- possibly have been anything</p> <p>12 specific about the proposal in that communication?</p> <p>13 A. In the 2020-2021 time period, maybe only a bullet</p> <p>14 point that said, "This is the proposal," that it is,</p> <p>15 the adjustment to the PSEO admissions.</p> <p>16 Q. After those emails were -- and communications were</p> <p>17 sent -- let me ask you, first, about internal</p> <p>18 communications. Did you go back and see if there</p> <p>19 were any internal communications about the proposal</p> <p>20 in that phase of the development?</p> <p>21 A. I would have done that when we were asked to produce</p> <p>22 documents.</p> <p>23 Q. In the normal course, would you have expected there</p> <p>24 to be a lot of communications about that?</p> <p>25 A. No.</p>	<p>1 language is sent from the Revisor's Office to the</p> <p>2 chairs, to their staff, and then they do their</p> <p>3 signatures, and then they put it in their hoppers.</p> <p>4 It's called the -- literally, a basket outside their</p> <p>5 leadership office, and then it's submitted for</p> <p>6 introduction into their respective chambers.</p> <p>7 Q. Okay. In the 2020-2021 cycle, were any changes</p> <p>8 proposed by the Revisor's Office, the governor's</p> <p>9 office, or the chairs of committees?</p> <p>10 A. To those proposals, no.</p> <p>11 Q. Okay.</p> <p>12 A. To that proposal, sorry.</p> <p>13 Q. Were there any significant discussion that you had</p> <p>14 with any of those offices after they sent -- you</p> <p>15 know, got back to you?</p> <p>16 A. No.</p> <p>17 Q. What happened after that?</p> <p>18 A. In the 2021 session -- who was chair then? We had</p> <p>19 an election in 2020, right? Yeah. I'm just -- it</p> <p>20 -- all that blurs together. For other people,</p> <p>21 obviously, all this blurs together for me as I'm,</p> <p>22 like, trying to stack these things together. So</p> <p>23 there would have been new leadership, right, in the</p> <p>24 committee in 2021. And so in the 2021 session, we</p> <p>25 were -- we got hearings in the senate and the house.</p>
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<p>1 Q. Not a lot of verbal communications?</p> <p>2 A. Not, not at a time.</p> <p>3 Q. Okay. And why not?</p> <p>4 A. Because it was a proposal that had come before, we</p> <p>5 generally don't have -- during that time period --</p> <p>6 again, during divided government, we generally don't</p> <p>7 -- didn't have -- for proposals that weren't new, we</p> <p>8 generally didn't have a lot of in-depth</p> <p>9 conversations about proposals that we proposed</p> <p>10 before.</p> <p>11 Q. Okay. Any other modes of communication that might</p> <p>12 have been used?</p> <p>13 A. Via email or via like a --</p> <p>14 Q. Text or --</p> <p>15 A. -- Teams or Zoom? We may have had, like, a Teams</p> <p>16 conversation just noting what was in the bill.</p> <p>17 Q. What happened after the proposals were sent to the</p> <p>18 Revisor's Office and the governor's office?</p> <p>19 A. Yep. So we got the go ahead, language looks good</p> <p>20 with a note the proposal's been in there before.</p> <p>21 That's generally an indication that it's easier --</p> <p>22 the scrutiny usually come with new proposals, right?</p> <p>23 It's new language we haven't seen before. After</p> <p>24 that, we reach out to the legislative chairs to</p> <p>25 author the bill. They generally agree, and then the</p>	<p>1 The house was a longer hearing than in the senate.</p> <p>2 Q. And were those hearings for members only, or was it</p> <p>3 public?</p> <p>4 A. Public.</p> <p>5 Q. And did the public testify or just listen?</p> <p>6 A. They would have -- it depends. Either chamber</p> <p>7 allows different amounts of testimony. In 20 -- in</p> <p>8 the House, for our presentation of the bill, the</p> <p>9 chairs decide whether they want to sit with us or</p> <p>10 sit up at their desks. And it's generally, we --</p> <p>11 the -- the -- my staff and I give line-by-line,</p> <p>12 basically, or section-by-section descriptions of</p> <p>13 what's in the bill. But we are given -- we were</p> <p>14 given different amounts of time in the House and</p> <p>15 Senate, so the presentation was slightly different</p> <p>16 between the two.</p> <p>17 Q. Okay. Do you have those statements that were made?</p> <p>18 A. They would be public. We recorded on the House and</p> <p>19 the Senate websites.</p> <p>20 Q. Would have had them written out?</p> <p>21 A. For those, I don't believe so. I believe I read off</p> <p>22 the bill.</p> <p>23 Q. Okay. Were -- was there -- how did those hearings</p> <p>24 go?</p> <p>25 A. And let me just be accurate. I would have read off</p>

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<p>1 the bill probably with, like, a notation here or</p> <p>2 there, but after the session, I throw out all my</p> <p>3 bills, like, after the hearings because I don't want</p> <p>4 to end up with a ton of paper.</p> <p>5 Q. So anything you would have written on those papers</p> <p>6 would have been discarded at the time?</p> <p>7 A. Yeah, yeah, like, right after the hearing. It's</p> <p>8 general practice for me.</p> <p>9 Q. What do you recall from the hearings?</p> <p>10 A. I recall going through the proposals in the House,</p> <p>11 like, every section, and I do not recall, like, in</p> <p>12 the -- like, anybody testifying about that proposal.</p> <p>13 And then in the Senate, I remember it being a very</p> <p>14 short presentation, comparatively short presentation</p> <p>15 where we talked about major buckets. And I did not</p> <p>16 mention that proposal specifically in that as we did</p> <p>17 not have enough time to go into smaller proposals.</p> <p>18 Q. Did the proposal generate much controversy?</p> <p>19 A. At the time, no.</p> <p>20 Q. Okay. What happened after the committee hearings?</p> <p>21 A. Nothing until the omnibus bills were put together by</p> <p>22 the respective chairs.</p> <p>23 Q. Okay. And what happened then?</p> <p>24 A. It was included in the House bill and was not</p> <p>25 included in the Senate bill.</p>	<p>1 A. After that, then the bill was released for public</p> <p>2 consumption. The bill got a hearing, and, again,</p> <p>3 these bills are, like, 120 pages. So you got a</p> <p>4 range of other proposals that were the focus of</p> <p>5 conversation. I do not recall any specific</p> <p>6 discussion or hearing from any entity about this</p> <p>7 specific proposal, the amendment in the House.</p> <p>8 I also -- in the Senate side, we did not have</p> <p>9 any particular -- any specific conversation about</p> <p>10 this proposal with the chair, and then there was</p> <p>11 also no mention of the proposal in any public</p> <p>12 testimony in the Senate during their respective</p> <p>13 hearings.</p> <p>14 Q. At any point, did the proposal generate public</p> <p>15 interest or controversy?</p> <p>16 A. In the 2021 session, no, not that I recall.</p> <p>17 Q. Okay. What happened after it was introduced into</p> <p>18 the House omnibus bill?</p> <p>19 A. Then it was -- then there was the process, standard</p> <p>20 process. There was an omnibus bill. It made it out</p> <p>21 of the House Policy Committee, most likely on a</p> <p>22 party line vote. In -- within the policy bill, I do</p> <p>23 not recall any public discussion on it, and then it</p> <p>24 was sent to the House Education Finance Committee.</p> <p>25 Q. And what happened there?</p>
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<p>1 Q. Okay. And did this create any public controversy?</p> <p>2 A. No.</p> <p>3 Q. And did you have any discussions with people on the</p> <p>4 -- in the legislature about that?</p> <p>5 A. Just merely what our intent was.</p> <p>6 Q. Okay. Who were those discussions with?</p> <p>7 A. It would have been with the respective chairs at the</p> <p>8 time.</p> <p>9 Q. Okay. And those would be -- how long would those</p> <p>10 conversations have lasted?</p> <p>11 A. Three or four minutes.</p> <p>12 Q. Okay. And do you remember anything specific about</p> <p>13 those conversations?</p> <p>14 A. Explaining the proposal. We would have explained it</p> <p>15 to the House chair, House Education Policy Chair</p> <p>16 Cheryl Youakim, I think, was the chair at the time.</p> <p>17 Nope. Ruth Richardson. Sorry. Former Rep</p> <p>18 Richardson and then Representative Davnie.</p> <p>19 Q. And did either of them express particular interest</p> <p>20 in this proposal?</p> <p>21 A. Inasmuch as yep, it's going to be in the bill. I</p> <p>22 think they -- they -- we explain the purpose of what</p> <p>23 I explained earlier in terms of what our purpose was</p> <p>24 of the proposal, and they included it in the bill.</p> <p>25 Q. What happened after that?</p>	<p>1 A. Same process for the House Education Finance</p> <p>2 Committee, but then it was combined with the House</p> <p>3 Education -- I'm sorry -- the education finance</p> <p>4 omnibus bill, so then it was just the education</p> <p>5 finance and policy omnibus bill, and then it was</p> <p>6 passed out of that committee on a party line vote.</p> <p>7 Q. And after it went from that committee, it went to a</p> <p>8 floor vote?</p> <p>9 A. It went to Ways and Means, which is kind of, like,</p> <p>10 the fiscal gatekeeper for the House.</p> <p>11 Q. Did they address anything about the amendment?</p> <p>12 A. No.</p> <p>13 Q. And what --</p> <p>14 A. And then it would have gone to the floor where in</p> <p>15 the floor, it got -- it got passed on, most likely,</p> <p>16 a party line vote. Actually, you know, I think</p> <p>17 there were one or two minority party members who</p> <p>18 would have voted for it.</p> <p>19 Q. Okay. And do you remember who that would have been?</p> <p>20 A. I believe it was -- I would have to go back and</p> <p>21 refresh my memory on that, but probably</p> <p>22 Representative Urdahl.</p> <p>23 Q. So it did pass the House?</p> <p>24 A. Yeah.</p> <p>25 Q. What happened after that?</p>

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<p>1 A. Then the Senate passed their bill through their same 2 process. 3 Q. Which did have the amendment? 4 A. Did have -- did not have the amendment. The 5 education policy, the education -- no. They had 6 combined committees back then, so the education -- 7 held over, put into their -- they put out their 8 education financing policy bill. They sent it to 9 what's called senate finance, which is their fiscal 10 gatekeeper. No. I apologize. It went to taxes 11 first. Then it went to -- and it probably would 12 have gone to taxes in the House as well. No 13 discussion in either body. Then it went to -- 14 because it's outside -- and that topic would have 15 been outside of jurisdiction. Then it went to 16 senate finance. No discussion there. It's a policy 17 proposal. It would have been outside of 18 jurisdiction. And then it got sent to their 19 respective floor. No discussion about whether it 20 was in and out in the Senate. They had the vote. 21 And what happens when bills are not the same in 22 the Senate or House but they were the same companion 23 bills, they -- both bodies assign what is called a 24 conference committee whereas members, usually three 25 to five, five usually in the education bill --</p>	<p>1 final vote by the full bodies. 2 Q. And during that entire course, there was no 3 particular discussion that you recall about the PSEO 4 amendment? 5 A. No. 6 Q. When was the next time the issue came up, as far as 7 you know? 8 A. The same legislative proposal process for the 2022 9 session. 10 Q. Okay. And that would have started in the summer or 11 fall? 12 A. Yeah, same. 13 Q. Same questions as before. Did you go back and look 14 at any document related to that period? Did you 15 talk to anyone about the 2021-'22 proposal? 16 A. No, just my recollection of engaging in the process. 17 Q. Was the tenor of the discussion any different that 18 year at MDE? 19 A. No. 20 Q. Okay. Was there any -- do you think there were any 21 additional -- and you testified in the 2020 to 2021, 22 there was almost no internal communication about it; 23 is that correct? 24 A. Correct. 25 Q. And was that the same for 2021-'22 period?</p>
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<p>1 education bill in -- in their history, and then five 2 members from both chambers that meet in what is 3 called a conference committee, and then they 4 basically work with a blank page. They have their 5 representative bills, and then they put together 6 proposals through negotiations and then sign a final 7 agreement to send back to their respective chambers 8 which cannot be amended on the floor. That's called 9 a conference committee report. 10 Once that is passed, if it is passed by the 11 respective bodies, then it is sent to the governor 12 for signature. 13 Q. And what happened in the -- in the conference 14 committee? 15 A. To my recollection, it was proposed -- I can't 16 remember -- publicly to the -- to the Senate by the 17 House for adoption and never accepted for adoption. 18 Q. Okay. So when the bill came out of the committee, 19 was the language stripped from the bill? 20 A. The language -- so the conference committee report 21 did not include the proposal. 22 Q. Okay. And then the conference report, is that 23 reintroduced in both houses for a final vote? 24 A. Yes, it is. The conference committee report is then 25 sent to the House floor and the Senate floor for a</p>	<p>1 A. Yes. Same political makeup at the legislature, and 2 it would have been the -- and same chairs. So the 3 decision-making process would have -- or I'm sorry. 4 The discussion process with the legislature would 5 have been -- would have been the same. In fact, we 6 got even less time to testify in the Senate. 7 Q. Was there any increase in the public attention to 8 the provision in the 2021-'22 cycle? 9 A. To my recollection, no. 10 Q. Did you ever hear from constituents, from 11 universities, anyone about the issue? 12 A. No. 13 Q. Had anyone reached out to you to express interest in 14 the proposal? 15 A. No. 16 Q. Once the process was passed over to the legislature, 17 was there anything significantly different than 18 happened in the prior cycle? 19 A. No. 20 Q. Did either house pass a bill with the provision in 21 it? 22 A. Yes, the House. 23 Q. The House. And then it was stripped out in the 24 committee or the conference committee; is that 25 correct?</p>

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<p>1 A. It just wasn't a topic.</p> <p>2 Q. Okay. After the 2021-'22 cycle, when was the next</p> <p>3 time it came up?</p> <p>4 A. In the submission process for the 2023 legislative</p> <p>5 session.</p> <p>6 Q. Was there anything different about the process that</p> <p>7 time?</p> <p>8 A. No.</p> <p>9 Q. Did you go back and talk to anyone who was involved</p> <p>10 in the development of the proposal for that year?</p> <p>11 A. As it was the same as the prior years, nothing more</p> <p>12 than just verifying. As with all of their proposals</p> <p>13 just like we did in the prior years, does this look</p> <p>14 right to you in the bill?</p> <p>15 Q. And when the proposed language went to the internal</p> <p>16 executive review process, were there any different</p> <p>17 types of discussions about it?</p> <p>18 A. No.</p> <p>19 Q. Okay. And any different discussions with the</p> <p>20 governor or the Revisor's Office?</p> <p>21 A. No.</p> <p>22 Q. Any different communication with the chairs of the</p> <p>23 committees?</p> <p>24 A. No. Leading up to the session?</p> <p>25 Q. Right.</p>	<p>1 had the opportunity to walk through the proposal.</p> <p>2 Whereas with the Senate in the prior, we didn't --</p> <p>3 weren't able to have that meeting.</p> <p>4 Q. And was there any pushback from either of the</p> <p>5 chairs?</p> <p>6 A. No.</p> <p>7 Q. Was there any expression of appreciation for the</p> <p>8 bill?</p> <p>9 A. For the bills in --</p> <p>10 Q. The proposed --</p> <p>11 A. -- that proposal?</p> <p>12 Q. -- the proposed PSEO amendment.</p> <p>13 A. Insofar as they understood the purposes.</p> <p>14 Q. Do you remember anything specific about those</p> <p>15 discussions?</p> <p>16 A. Yes. I mean, when we talked to the Senate, when we</p> <p>17 explained the purpose around equitable access to</p> <p>18 opportunity for students in PSEO, I remember them</p> <p>19 just saying, "That make sense to us."</p> <p>20 Q. Okay.</p> <p>21 A. "Seems like a pretty straightforward proposal."</p> <p>22 Q. And who was the leader in the Senate chair?</p> <p>23 A. The Senate chairs are Steve Cwodzinski in education</p> <p>24 policy and Mary Kunesh for senate finance.</p> <p>25 Q. And how did the committee handle the process the</p>
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<p>1 A. No, other than their standard process where we</p> <p>2 walked them through the proposals.</p> <p>3 Q. So basically, so things that happened the prior</p> <p>4 years and the same process --</p> <p>5 A. Yes.</p> <p>6 Q. -- in 20 -- what was now 2023?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. The leadership had changed by then?</p> <p>9 A. Yes.</p> <p>10 Q. And did you have any discussion with the new leaders</p> <p>11 about the proposal?</p> <p>12 A. The new leaders?</p> <p>13 Q. The new chairs of the committee?</p> <p>14 A. Yes. In describing -- walking through all the</p> <p>15 proposals, yes.</p> <p>16 Q. Okay. Any different -- was it -- was the nature of</p> <p>17 the discussion the same as it had been in previous</p> <p>18 years?</p> <p>19 A. In the House, it was the same new chairs, Youakim</p> <p>20 and Pryor, but them having been on the committees</p> <p>21 prior were familiar with the proposals that they</p> <p>22 read through the -- what they're passing in general</p> <p>23 and having sat on the committees before.</p> <p>24 In the Senate, it was new leadership, so we</p> <p>25 just, like, walked through every single proposal and</p>	<p>1 2023 amendment?</p> <p>2 A. So they -- same process kind of leading up with the</p> <p>3 hearing. We had the hearing, and then --</p> <p>4 Q. And when would that have been, roughly?</p> <p>5 A. I'm sorry. Did we have -- the hearings would have</p> <p>6 been end of February, beginning of -- middle to end</p> <p>7 of February in the 2023 session on the Department's</p> <p>8 education policy bill.</p> <p>9 Q. Okay. Middle to end of February?</p> <p>10 A. Yes, on the initial introduction of the bill, not</p> <p>11 introduction but, like, our explanatory</p> <p>12 conversation.</p> <p>13 Q. To the committee?</p> <p>14 A. To the committees.</p> <p>15 Q. Okay. To the committees. And then what happened?</p> <p>16 A. Then -- and I -- I -- just can't remember, like,</p> <p>17 dates. It all happened around the same couple of</p> <p>18 weeks. So these happened kind of contiguous or</p> <p>19 contemporaneously. Representatives of the -- I</p> <p>20 can't remember who was first, University of</p> <p>21 Northwestern or Crown College reached out to have a</p> <p>22 conversation to just understand the proposal, and we</p> <p>23 then agreed to -- to meet with them to talk through</p> <p>24 concerns, and I think there were some emails asking</p> <p>25 questions as well.</p>

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<p>1 Q. Okay. And just for clarity, the bill -- when you 2 send the bill over, you talk to the committee 3 chairs. Is it initially introduced within the House 4 committee? Do they initially introduce it on the 5 House, and the House refers it back to the 6 committee, or it just automatically starts in the 7 committee?</p> <p>8 A. That's a good question. I'm interrupting you. I 9 apologize.</p> <p>10 Q. That's fine.</p> <p>11 A. So what happens is, the author of any bill gets the 12 bill, and then in the House, they have green 13 jackets. In the Senate, they have yellow jackets. 14 And on the jacket, they do the signature, and then 15 depending on if it's a budget or policy bill, they 16 have to get a couple other signatures. They have to 17 get, like, a co-author. Once they have the 18 requisite number of co-authors and whatever other 19 details they need to fill on there, they drop it in 20 what's called the hopper in front of leadership's 21 office.</p> <p>22 And then leadership then puts it on the 23 schedule for introduction on the House floor for the 24 next legislative day that's scheduled, and that's up 25 to leadership to determine that. And then on the</p>	<p>1 and gone back to the committees for --</p> <p>2 A. The bills most likely would have been introduced in 3 -- on -- into the chambers in late January, early 4 February.</p> <p>5 Q. Okay.</p> <p>6 A. And then the hearings would have been late February 7 or early March.</p> <p>8 Q. Okay. And did you have any -- other than what 9 you've already mentioned, did you have any 10 discussion with either authors of the bill about its 11 purpose or what -- what MDE was trying to 12 accomplish?</p> <p>13 A. Would have had updates to them that we've had 14 conversations and outreach from the universities 15 that I mentioned.</p> <p>16 Q. Okay. When -- as -- when did the public -- the bill 17 come to the public attention, as far as you recall?</p> <p>18 A. The whole omnibus bill, when it would have been 19 introduced.</p> <p>20 Q. How about the PSEO provision specifically?</p> <p>21 A. Whoever read the bill would have recognized that. I 22 just can't remember the exact date when we got 23 outreach. That would have been my first indication 24 that there was public interest in -- in the 25 provision.</p>
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<p>1 floor, they then re-refer it after introduction to 2 the committee that is suggested. They get a 3 suggestion for a -- for referral to the committee, 4 and then they make the determination. It's usually 5 based on jurisdiction. So for our education omnibus 6 policy bill, it would have been referred to the 7 education policy bill. Once they receive that, 8 which takes, I don't know, one or two days for them 9 to get the documentation, then they make the 10 decision of when or if they want to schedule a 11 particular bill for hearing in their committee.</p> <p>12 Q. Okay. And who was the author for the proposal on 13 PSEO admission requirement?</p> <p>14 A. The author for the MDE education policy -- omnibus 15 policy bill was Chair Laurie Pryor.</p> <p>16 Q. Okay. And is it usually the chair that becomes the 17 author?</p> <p>18 A. Of the Department's education policy bill, yes.</p> <p>19 Q. Okay.</p> <p>20 A. Usually.</p> <p>21 Q. And on the Senate side, was there a separate author?</p> <p>22 A. Yes.</p> <p>23 Q. And who was that?</p> <p>24 A. That was Chair Steve Cwodzinski.</p> <p>25 Q. So it was introduced in early February, presumably,</p>	<p>1 Q. Okay. Kim Hicks eventually became a co-author of 2 bill; is that correct?</p> <p>3 A. If her name is on the bill. I did not refresh 4 myself who all the co-authors were.</p> <p>5 Q. Did you have any involvement in any of the hearings 6 that took place --</p> <p>7 A. Yes.</p> <p>8 Q. -- with the -- what was your involvement?</p> <p>9 A. For on the introductory hearings, I either -- in 10 portions or in -- in this instance in the Senate, my 11 colleague and I presented the bill section by 12 section and answered questions or fielded comments 13 from members. And then in the House, I believe I 14 presented the bill with two of my colleagues from my 15 government relations team and fielded questions and 16 comments.</p> <p>17 Q. Okay. What was your -- what efforts did you make to 18 persuade legislators to pass the proposal, 19 specifically the PSEO proposal regarding admissions 20 requirement?</p> <p>21 A. It would have been general conversations explaining 22 it and explaining the -- explaining the -- the 23 purpose. Usually how it works with a proposal is 24 when a chair -- especially when it's not a budget 25 proposal, when it's a policy proposal -- if the</p>

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<p>1 chairs have no specific questions about a proposal</p> <p>2 and, you know, have said, okay, we understand the</p> <p>3 purpose and believe that it's the -- you know, we</p> <p>4 agree with the purpose, that's generally the extent</p> <p>5 of it.</p> <p>6 In this situation, we would have just updated</p> <p>7 them that we met with members from the colleges I</p> <p>8 mentioned to just to provide the progress updates on</p> <p>9 conversations.</p> <p>10 Q. Did you feel like you had to engage what we might</p> <p>11 call lobbying of specific representative or senators</p> <p>12 to try to get them to vote a certain way?</p> <p>13 A. On this proposal, no.</p> <p>14 Q. Okay. And why not?</p> <p>15 A. Generally, when we have -- in any policy proposal,</p> <p>16 when we have a chair, chairs say that they express</p> <p>17 positive sentiment towards a proposal and don't have</p> <p>18 questions, like, oh, you're going to have to</p> <p>19 convince people in our caucus we don't engage in</p> <p>20 lobbying efforts. And we got generally positive</p> <p>21 responses about this in the right direction.</p> <p>22 Q. Did you have any conversation during the entire 2023</p> <p>23 legislative process with outside organize -- other</p> <p>24 than universities, with other outside organizations</p> <p>25 that were either for or against the proposal?</p>	<p>1 were aware of or, like, literally reached out to us</p> <p>2 and told us?</p> <p>3 Q. Well, were you aware that there was a concern?</p> <p>4 A. From the representative and then from those colleges</p> <p>5 and, I believe, a few legislators. The one that</p> <p>6 comes to mind is Representative Harry Niska.</p> <p>7 Q. Okay. And did he reach out to you directly, or how</p> <p>8 did you --</p> <p>9 A. I believe he may have -- to me personally, no.</p> <p>10 Q. Okay. Did he reach out to others in MDE?</p> <p>11 A. He may have sent a message via, like, a letter.</p> <p>12 Q. Okay. And why do you think that?</p> <p>13 A. Because legislators normally send the letters to us</p> <p>14 when they're irritated about something.</p> <p>15 Q. Okay. Did you go back to look to see if there was</p> <p>16 such a letter?</p> <p>17 A. I have not.</p> <p>18 Q. And did you ask anybody else if they saw such a</p> <p>19 letter?</p> <p>20 A. I have not.</p> <p>21 Q. Did you have conversation with any other senators or</p> <p>22 representatives, you know, one on one or in small</p> <p>23 groups about the proposal?</p> <p>24 A. Just with the chairs, just as -- yes, with the</p> <p>25 chairs.</p>
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<p>1 A. I'm trying to think. I think we may have. So</p> <p>2 generally what happens is, if there is particular</p> <p>3 interest in a proposal that isn't, like, a big, big</p> <p>4 item normally, right -- because this one, as I had</p> <p>5 mentioned, had gone under the radar over the last</p> <p>6 few legislations with our partners who are kind of</p> <p>7 the usual suspects at the legislature, like, our</p> <p>8 school district representatives, like, you know, the</p> <p>9 teacher group representatives, we just kind of let</p> <p>10 them know, you know, this is something that's kind</p> <p>11 of popped up and just give them -- you know, like,</p> <p>12 letting them know there is particular interest in</p> <p>13 this proposal just so you're aware.</p> <p>14 Q. Okay.</p> <p>15 A. But we would have mentioned that to them that -- you</p> <p>16 know, just in our normal check-in.</p> <p>17 Q. Did anyone ever approach you or your colleagues at</p> <p>18 MDE with concerns that the proposal might be</p> <p>19 unconstitutional?</p> <p>20 A. Yes.</p> <p>21 Q. Who was that?</p> <p>22 A. That would have been the representatives from Crown</p> <p>23 College and in University of Northwestern.</p> <p>24 Q. Did anyone else raise those concerns?</p> <p>25 A. No. Like, when you say, "Approach MDE," like, we</p>	<p>1 Q. In communication with -- was it Senator -- or</p> <p>2 Congressman Bakeberg?</p> <p>3 A. Representative Bakeberg.</p> <p>4 Q. Representative Bakeberg?</p> <p>5 A. Yeah.</p> <p>6 Q. Did you have any conversations with him?</p> <p>7 A. I can't remember, but it's possible he talked to me</p> <p>8 about a range of issues.</p> <p>9 Q. Do your recall if he specifically spoke about the</p> <p>10 PSEO issue?</p> <p>11 A. He may have.</p> <p>12 Q. Okay. But you don't have -- you do or don't have a</p> <p>13 specific recollection of that?</p> <p>14 A. I don't recall a specific recollection of the</p> <p>15 conversation with him.</p> <p>16 Q. Would you have made notes of it if you did?</p> <p>17 A. No.</p> <p>18 Q. Okay. What -- what happened on the floor votes?</p> <p>19 Was -- was the proposed language in both the House</p> <p>20 and Senate bill?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And what happened on the floor in both?</p> <p>23 A. On the floor, there were at least -- at least one</p> <p>24 amendment proposed to remove it from the bill, and I</p> <p>25 do remember Representative Niska kind of -- so how</p>

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<p>1 floor conversations usually go is, the author of the</p> <p>2 amendment is the one who kind of speaks to it and</p> <p>3 kind of leads and organizes the discussion around</p> <p>4 it. So I believe, if my recollection serves me</p> <p>5 right, the main amendment discussing this proposal</p> <p>6 are removing the amendment, removing the proposals.</p> <p>7 The amendment to remove the proposal was led by</p> <p>8 Presentative Niska and several other legislators</p> <p>9 stood up, I can't remember who they were, but I</p> <p>10 think it was a range of legislators that stood up</p> <p>11 opposing the proposal. I believe on the Senate</p> <p>12 side, I believe -- in know that Senator Matthews</p> <p>13 spoke. I just can't remember if he led an</p> <p>14 amendment. There were several other amendments that</p> <p>15 stripped it out with other proposals being stripped</p> <p>16 out, like, delete alls and those type of things that</p> <p>17 would not have included it as well.</p> <p>18 Q. So what ultimately happened on the Senate floor?</p> <p>19 A. It passed.</p> <p>20 Q. Okay. And then on the House?</p> <p>21 A. It passed.</p> <p>22 Q. Okay. And then -- so when it went to the committee,</p> <p>23 it just stays in the committee report?</p> <p>24 A. It gets included into the --</p> <p>25 Q. It gets included in the committee report?</p>	<p>1 Q. Okay. And did -- how did they respond to the</p> <p>2 update?</p> <p>3 A. Generally when the staff sees a proposal that they</p> <p>4 have put forward, they will express gratitude in one</p> <p>5 way or another, you know, letting us, you know --</p> <p>6 Teams chat or whatever, like, you know, little</p> <p>7 clapping hands. I believe that in this instance,</p> <p>8 division staff would have let us know on the whole</p> <p>9 range of proposals, like, you know, good to see</p> <p>10 these proposals are in the bill.</p> <p>11 Q. Did you -- did anyone at MDE, other than counsel,</p> <p>12 ever make comments about the opponents of the bill?</p> <p>13 A. In -- can you clarify? Like, are you talking about</p> <p>14 after the bill passed, or --</p> <p>15 Q. Just during the entire 2023 process of -- of while</p> <p>16 the bill was pending.</p> <p>17 A. Just -- I think I heard from division staff of just,</p> <p>18 we understand that this is -- this is who would be</p> <p>19 opposing the bill and practices we've heard about.</p> <p>20 Q. Okay. And what kind of practices have they heard</p> <p>21 about?</p> <p>22 A. The admissions practices.</p> <p>23 Q. Okay. And did any MDE staffers or others, other</p> <p>24 than counsel with MDE, express any opinions about</p> <p>25 those practices?</p>
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<p>1 A. Yeah.</p> <p>2 Q. And then it comes out there's a final vote on the</p> <p>3 committee report?</p> <p>4 A. There's a conference committee report on both the</p> <p>5 House and Senate.</p> <p>6 Q. And it passed?</p> <p>7 A. Yes.</p> <p>8 Q. In that process, did you ever have any conversation</p> <p>9 with legislators or others about -- let me restate</p> <p>10 that. At that time, the bill had become quite</p> <p>11 publicly controversial; is that fair?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And were there internal discussions at MDE</p> <p>14 about the controversy?</p> <p>15 MR. TIMMERMAN: Just want to object to</p> <p>16 the extent it calls for you to disclose</p> <p>17 privilege communications and instruct you</p> <p>18 not to answer to the extent it does.</p> <p>19 BY MR. BAXTER:</p> <p>20 Q. Outside of what counsel, your attorneys, may have</p> <p>21 given, were there instructions given internally</p> <p>22 about the controversy?</p> <p>23 A. There was an update to leadership and to just staff</p> <p>24 in general of what was in the bill overall, this</p> <p>25 included.</p>	<p>1 A. That they felt that that -- the admission practices</p> <p>2 that have a religious test was not an appropriate</p> <p>3 use of PSEO dollars, you know, that phrasing makes</p> <p>4 sense and that it wasn't equitable access for all</p> <p>5 students and that that was why they support the --</p> <p>6 that's what supported the legislative proposal.</p> <p>7 Q. And do you remember who, specifically, would have</p> <p>8 said that?</p> <p>9 A. Beth Barsness is who we worked with.</p> <p>10 Q. And what, exactly, did Beth Barsness say about that?</p> <p>11 A. At that point, the proposal, we explained it in</p> <p>12 briefing, and it was just explained, again, like,</p> <p>13 the familiarity with -- you know, University of</p> <p>14 Northwestern had been one of the institutions that</p> <p>15 had had the test, and then I think after we had said</p> <p>16 -- you know, we had outreach from Crown College, I</p> <p>17 think. Then there was expression that Crown College</p> <p>18 would have one as well.</p> <p>19 Q. Did Beth Barsness ever express a negative opinion</p> <p>20 about either of those institutions?</p> <p>21 A. Insofar as those admission tests from those</p> <p>22 institution -- that the institutions had were not in</p> <p>23 line with how we would want to say the PSEO program</p> <p>24 operated for equitable access.</p> <p>25 Q. Do you recall any specific language that she used?</p>

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<p>1 A. No.</p> <p>2 Q. Okay. In anyone -- any language from anyone else at</p> <p>3 MDE at the same time?</p> <p>4 A. On -- just about the institution.</p> <p>5 Q. Negative opinions about the institutions?</p> <p>6 A. I'm trying to think. I'm just trying to think. I'm</p> <p>7 just trying to think anything different that we</p> <p>8 don't agree with, like, practice of the admissions</p> <p>9 test and how the purpose of the PSEO program, not</p> <p>10 about the institutions themselves.</p> <p>11 Q. What about the individuals who were proposing the</p> <p>12 legislation?</p> <p>13 A. No.</p> <p>14 Q. Okay. Any negative statements about anything else</p> <p>15 related to the amendment?</p> <p>16 A. Related to --</p> <p>17 Q. Well, when you said, "Not about the institutions in</p> <p>18 particular," I want to know if you had something in</p> <p>19 mind but not -- and again, not asking you what</p> <p>20 counsel said but what anyone else might have said.</p> <p>21 A. I think there were some expression and some concern</p> <p>22 about some of the questions that were -- like, some</p> <p>23 of the questions that were asked of applicants into</p> <p>24 those programs and, like, what position and</p> <p>25 expressing kind of concern around, like, the fact</p>	<p>1 how that guides you in your daily life," or</p> <p>2 something to that extent.</p> <p>3 Q. And did any MDE employees, other than counsel, say</p> <p>4 anything specifically about those requirements that</p> <p>5 you recall?</p> <p>6 A. That kids shouldn't have to do that to access a</p> <p>7 state-funded program.</p> <p>8 Q. Did you consider whether -- which institutions did</p> <p>9 you know might be affected by the bill?</p> <p>10 A. What came up to me in the process was University of</p> <p>11 Northwestern and Crown College --</p> <p>12 Q. Okay.</p> <p>13 A. -- based on the conversation.</p> <p>14 Q. And did MDE do any other investigations as to what</p> <p>15 other institutions might be affected?</p> <p>16 A. I believe that division staff would have -- would</p> <p>17 have looked, at least in -- in -- in general or had</p> <p>18 -- had discussed that, but I was not part of any of</p> <p>19 those investigations, that program area</p> <p>20 implementation.</p> <p>21 Q. Okay. Was there any discussion about universities</p> <p>22 that don't have statements of faith but enforce</p> <p>23 religious requirements in other ways?</p> <p>24 A. I believe in the course of the 2023 session, there</p> <p>25 were several other institutions that I personally</p>
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<p>1 that kids were -- or applicants, high school</p> <p>2 students were asked to declare those -- make</p> <p>3 statements on those questions.</p> <p>4 Q. And what, specifically, do you remember people at</p> <p>5 MDE saying about that?</p> <p>6 MR. TIMMERMAN: And again, I'll just</p> <p>7 object to the extent that it's -- any</p> <p>8 conversation involving a lawyer which</p> <p>9 attorney advice was sought or provided, that</p> <p>10 would be privileged.</p> <p>11 So subject to that caveat, you can</p> <p>12 answer.</p> <p>13 THE WITNESS: Just that kids shouldn't</p> <p>14 have to answer those questions.</p> <p>15 BY MR. BAXTER:</p> <p>16 Q. Okay. Do you remember which questions were being</p> <p>17 referred to?</p> <p>18 A. The -- I can't remember exact phrasing in the</p> <p>19 admissions test for -- I think it was University of</p> <p>20 Northwestern, but it was, you know, how does -- and</p> <p>21 this is just me repeating it, not me making any</p> <p>22 personal judgment myself, but that -- "How does" --</p> <p>23 I think it was, "How does Jesus Christ" or "God</p> <p>24 guide you in your daily life, and can you</p> <p>25 demonstrate a value there" or "demonstrate instances</p>	<p>1 learned about that were -- are religiously</p> <p>2 affiliated but don't have admissions test questions.</p> <p>3 Q. And did MDE ever consider taking action to address</p> <p>4 enforcement of religious standards beyond admissions</p> <p>5 requirement?</p> <p>6 A. In terms of ever, I believe that that -- like, there</p> <p>7 may have been questions around that before my time</p> <p>8 at MDE, but I know that during my time in 2018 when</p> <p>9 this issue was, like, an administrative matter, you</p> <p>10 know, I was refreshed many times around the caselaw</p> <p>11 from the 1990s that allowed for religious</p> <p>12 institutions to participate in the PSEO program.</p> <p>13 MR. BAXTER: Okay. We've been going</p> <p>14 about an hour and a half, I think. Maybe we</p> <p>15 came back an hour and ten minutes or so ago.</p> <p>16 Just give me five minutes.</p> <p>17 Why don't we break for lunch. It's</p> <p>18 noon, almost.</p> <p>19 MR. TIMMERMAN: 11:48.</p> <p>20 (A recess was had from 11:48 p.m. until</p> <p>21 12:34 p.m.</p> <p>22 BY MR. BAXTER:</p> <p>23 Q. Mr. Unni, before we broke for lunch, we had some</p> <p>24 discussions about the 2023 legislative process, and</p> <p>25 you mentioned during that, if I recall correctly,</p>

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<p>1 that when the proposal came up in the 2022-'23</p> <p>2 cycle, it would have gone to the executive officers</p> <p>3 of the MDE, that kind of committee meeting that</p> <p>4 wasn't really a formal committee. And you mentioned</p> <p>5 there was, if I'm recalling correctly, concern about</p> <p>6 protecting students on -- you know, protected</p> <p>7 category. Do you recall that?</p> <p>8 A. Yes.</p> <p>9 Q. And what were the -- do you know what, generally,</p> <p>10 those protected categories are?</p> <p>11 A. Yeah. So religion, race, ethnicity, national</p> <p>12 origin, sexual orientation, gender.</p> <p>13 Q. Okay. And are you familiar with the Minnesota Human</p> <p>14 Rights Act?</p> <p>15 A. I mean, generally, the nuts and bolts, not down</p> <p>16 into, but yeah.</p> <p>17 Q. And what's your understanding of the Human Rights</p> <p>18 Act?</p> <p>19 A. That it provides protections for a range of</p> <p>20 categories, including, I think -- including all the</p> <p>21 ones including some additional ones.</p> <p>22 Q. Why did MDE think it needed something more than</p> <p>23 what's already provided in the MHRA?</p> <p>24 MR. TIMMERMAN: I'll just object to the</p> <p>25 extent it calls for disclosure of privileged</p>	<p>1 '23 cycle and '22 cycle did not come up.</p> <p>2 Q. And what had helped establish that? And what -- did</p> <p>3 you establish there needed to be a fix because of</p> <p>4 complaints you had received?</p> <p>5 A. We had received, at least what staff had told me in</p> <p>6 the past, is how the issue came up around admissions</p> <p>7 processes, that we had received several parent</p> <p>8 complaints around their students having to engage in</p> <p>9 certain admissions tests and questions. In this</p> <p>10 particular circumstance that we heard around was</p> <p>11 around religious -- religious tests. And then I</p> <p>12 think, as I think we had discussed earlier, we had</p> <p>13 had those conversations in around 2018 around was</p> <p>14 there an administrative solution to this after</p> <p>15 determining through that process that that was not</p> <p>16 within our authority. That's when we pursued a</p> <p>17 legislative fix.</p> <p>18 Q. So were any of the concerns you heard based around</p> <p>19 racial admission requirements?</p> <p>20 A. That I'm familiar with, no.</p> <p>21 Q. Okay. Any other category other than religion?</p> <p>22 A. That we heard about? Specifically around the --</p> <p>23 actually what the test asked for, it -- what the</p> <p>24 test asked for was based on religious questions, but</p> <p>25 the implication concerns from staff is that that</p>
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<p>1 information.</p> <p>2 Instruct you not to answer to that</p> <p>3 extent.</p> <p>4 THE WITNESS: I think after the result</p> <p>5 of discussions in 2018, it was determined</p> <p>6 that we needed a legislative proposal to be</p> <p>7 clear that the equitable access that we</p> <p>8 wanted to pursue for protected classes that</p> <p>9 are laid out in the proposal, right, needed</p> <p>10 a legislative proposal.</p> <p>11 BY MR. BAXTER:</p> <p>12 Q. And was there any discussions about where the MHRA</p> <p>13 didn't already solve those concerns?</p> <p>14 MR. TIMMERMAN: Same objection, but you</p> <p>15 can answer.</p> <p>16 THE WITNESS: Policy-wise, I did not</p> <p>17 recall having specific conversations around</p> <p>18 that.</p> <p>19 BY MR. BAXTER:</p> <p>20 Q. You do not recall any specific discussions. Do you</p> <p>21 know, did those discussions happen even if you don't</p> <p>22 recall the specifics?</p> <p>23 A. At that point in 2023, it had been established</p> <p>24 pretty much that we needed a legislative proposal to</p> <p>25 change the statutes, and so those discussions in the</p>	<p>1 implication could have an impact on other protected</p> <p>2 classes.</p> <p>3 Q. Like what?</p> <p>4 A. Like orientation.</p> <p>5 Q. What do you mean when you say, "orientation"?</p> <p>6 A. Sexual orientation.</p> <p>7 Q. Any other categories?</p> <p>8 A. Based on my conversations, no.</p> <p>9 Q. Okay. And you said, "Based on your conversations."</p> <p>10 Who were those conversations with?</p> <p>11 A. They would have been with division staff that we've</p> <p>12 mentioned before and probably, you know, with</p> <p>13 Government Relations staff.</p> <p>14 Q. Okay. And what kind of things did they say?</p> <p>15 A. They talked about the parent complaints which were</p> <p>16 generally around not feeling uncomfortable and</p> <p>17 feeling like -- with the specific religious</p> <p>18 questions in the admissions test. And then there</p> <p>19 were discussions around it could have an impact on</p> <p>20 students' sexual orientation and their -- just how</p> <p>21 that impacts their rights.</p> <p>22 Q. Was it your sense that the concerns were about</p> <p>23 religious schools restricting people of their same</p> <p>24 faith, that that was discriminatory, or was it</p> <p>25 really about the sexual orientation and gender -- or</p>

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<p>1 sexual orientation issue?</p> <p>2 A. That was kind of a secondary kind of concern. It</p> <p>3 really was about restricting based on -- at least in</p> <p>4 those specific instances was around restricting</p> <p>5 based on faith-based questions specific to the</p> <p>6 faith.</p> <p>7 Q. And so what do you mean when you say it was based on</p> <p>8 that? Students couldn't -- Catholics couldn't get</p> <p>9 into a certain school or something like that?</p> <p>10 A. I did not see to that specific level of conversation</p> <p>11 or have specific level of conversation about</p> <p>12 someone's specific faith and the faith of any</p> <p>13 particular institution, but it was around the</p> <p>14 concern that answering in a particular way a</p> <p>15 question about, do you have this particular faith,</p> <p>16 or do you follow, you know, a particular tenet of a</p> <p>17 religion, answering in a certain way would have a</p> <p>18 qualitative impact on their admission.</p> <p>19 Q. And do you -- do you remember who first raised a</p> <p>20 concern that that could impact individuals based on</p> <p>21 their sexual orientation?</p> <p>22 A. I believe it was from division staff in</p> <p>23 conversations about what the impact could have. I</p> <p>24 believe it was in 2018, and then I know when we've</p> <p>25 had conversations in, like, the 2023 cycle when we</p>	<p>1 instruct you not to answer, but otherwise,</p> <p>2 you can.</p> <p>3 THE WITNESS: Sure. Just with -- in</p> <p>4 talking through when there were questions</p> <p>5 from -- in conversation from, like,</p> <p>6 legislators or with staff talking about the</p> <p>7 implications of it is how could an</p> <p>8 admissions decision or a question -- sorry</p> <p>9 -- how could admissions questions intersect</p> <p>10 with someone's sexual orientation. And so</p> <p>11 if someone looked at the question or maybe</p> <p>12 looked at -- and the question talked about,</p> <p>13 I don't know, something like a Student Code</p> <p>14 of Conduct, right, and a Student Code of</p> <p>15 Conduct had something to say about someone's</p> <p>16 sexual orientation or something like that,</p> <p>17 how would that make a student answer a</p> <p>18 question about following the practices at</p> <p>19 that school and being truthful about who</p> <p>20 they were.</p> <p>21 BY MR. BAXTER:</p> <p>22 Q. And who are the individuals who are most engaged in</p> <p>23 this type of conversation?</p> <p>24 A. Probably legislative staff.</p> <p>25 Q. And do you remember any specific individuals you</p>
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<p>1 started to have substantive conversations about it</p> <p>2 because then people started to pay attention to the</p> <p>3 proposal more than they had before, there were</p> <p>4 conversations about the implications around what the</p> <p>5 language was as laid out in terms of laying out all</p> <p>6 the classes, how that could all play out. Because</p> <p>7 this is protecting students on all the classes that</p> <p>8 were protected. It just so happens fact-based that</p> <p>9 can -- how it's being implemented -- implicated now</p> <p>10 or how that proposal is implicated now is just</p> <p>11 because of those religious tests.</p> <p>12 But that -- back to the point, the sexual</p> <p>13 orientation question just came up or considerations</p> <p>14 came up in conversations there. I know that they</p> <p>15 were raised in -- before in terms of that could be a</p> <p>16 consequence of the process, but I never had any</p> <p>17 in-depth conversations about that component of it --</p> <p>18 Q. Okay.</p> <p>19 A. -- up until 2023.</p> <p>20 Q. And what in-depth conversation did you have about it</p> <p>21 in 2023?</p> <p>22 A. Right. So --</p> <p>23 MR. TIMMERMAN: Just going to jump in</p> <p>24 and object. To the extent it calls for</p> <p>25 privileged information, I'm going to</p>	<p>1 spoke to about it?</p> <p>2 A. I'm trying to think. I think I probably spoke with</p> <p>3 the chairs about it. So our Chair Pryor; Chair, I</p> <p>4 think, Youakim; Chair Kunes; Chair Cwodzinski I</p> <p>5 mostly likely had a conversation with.</p> <p>6 Q. What about within MDE? Anyone who was particularly</p> <p>7 keyed into this issue?</p> <p>8 A. My -- my team, my legislative team, but I let those</p> <p>9 -- Shana Morse and Megan Ariola. But I'm the one</p> <p>10 who, like, leads on those conversations, so they</p> <p>11 would have been present for the conversations, so</p> <p>12 they would have been present for the conversation or</p> <p>13 maybe had, you know, through me signing off on</p> <p>14 maybe, like, responses, maybe have answered</p> <p>15 inquiries from people.</p> <p>16 Q. Okay. And outside of asking counsel about it, did</p> <p>17 any of those individuals ever express an opinion</p> <p>18 about why Minnesota Human Rights Act didn't already</p> <p>19 solve this problem?</p> <p>20 A. I don't remember conversations about that.</p> <p>21 Q. Okay. Did you ever personally investigate that</p> <p>22 yourself?</p> <p>23 A. I -- outside of discussion with counsel, I did not</p> <p>24 have conversations with that -- regarding that.</p> <p>25 Q. Okay. I'm going to go back to 2008. I know this</p>

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<p>1 was before your time. I would like you to review a</p> <p>2 document I'll label as Exhibit 2.</p> <p>3 (Exhibit 2 was marked for</p> <p>4 identification.)</p> <p>5 BY MR. BAXTER:</p> <p>6 Q. Just take minute to look at that and just wanted to</p> <p>7 make sure you had a chance to review.</p> <p>8 A. I'm done.</p> <p>9 Q. Have you seen this document before?</p> <p>10 A. Yes.</p> <p>11 Q. And in what context?</p> <p>12 A. I was -- I reviewed it in preparation for this.</p> <p>13 Q. In preparation for this deposition?</p> <p>14 A. Yes.</p> <p>15 Q. Was that the first time you had seen it?</p> <p>16 A. I don't -- I think it may have been. I think it may</p> <p>17 have been forwarded to me way back long ago as an</p> <p>18 attachment for prior staff being familiar with this</p> <p>19 issue having come up before.</p> <p>20 Q. Okay. And did you look for that email in</p> <p>21 preparation for this?</p> <p>22 A. I -- pardon me?</p> <p>23 Q. For this deposition, namely that email where this</p> <p>24 might have been forwarded to you?</p> <p>25 A. I believe if it would have been forwarded to me when</p>	<p>1 in reviewing, you know, documents from that time</p> <p>2 period, I think this was the extent of reviewing</p> <p>3 whether they could, and then I think -- maybe it's</p> <p>4 in some other documents -- seen some responses from</p> <p>5 the University and representation talking about the</p> <p>6 ability to participate in the program, but I think</p> <p>7 it was just to the level of an inquiry is my</p> <p>8 familiarity with it.</p> <p>9 Q. And you came in as the director of Government</p> <p>10 Relations to MDE the first time in 2014; is that</p> <p>11 correct?</p> <p>12 A. Correct.</p> <p>13 Q. Were there any guidelines in place at the time for</p> <p>14 PSEO institutions about what it meant to offer</p> <p>15 sectarian versus nonsectarian courses?</p> <p>16 A. I, at the time in 2014, did not have the issue come</p> <p>17 in front of me, so I can't speak to that.</p> <p>18 Q. Okay. At some point, did that issue come in front</p> <p>19 of you?</p> <p>20 A. The -- the issue that came in front of me was around</p> <p>21 the admissions process, so what -- how I was</p> <p>22 familiarized with the sectarian question --</p> <p>23 sectarian coursework question was just made aware</p> <p>24 that we had kind of looked at issues in this same</p> <p>25 kind of area, the same realm. But where I was</p>
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<p>1 we last dealt with it, it would have been in 2016 or</p> <p>2 '18, and I believe I looked for emails back in that</p> <p>3 time period.</p> <p>4 MR. BAXTER: Okay. And Jeff, I know</p> <p>5 this is unintentional. I'm going to ask you</p> <p>6 not to nod along with the witness.</p> <p>7 MR. TIMMERMAN: Oh, yeah. Sorry.</p> <p>8 MR. BAXTER: Just because --</p> <p>9 MR. TIMMERMAN: It's a habit. Sorry.</p> <p>10 MR. BAXTER: No problem. Thanks.</p> <p>11 BY MR. BAXTER:</p> <p>12 Q. And what's your understanding of what the purpose of</p> <p>13 this email?</p> <p>14 A. It is an issue around the actual -- the nature of</p> <p>15 the course -- course substance that is provided to</p> <p>16 students through the PSEO program.</p> <p>17 Q. And what was the concern?</p> <p>18 A. It appears that the concern from staff here is that</p> <p>19 the courses being taught were not in line with the</p> <p>20 statute that was already in place around prohibiting</p> <p>21 sectarian courses to be offered through the -- for</p> <p>22 PSEO participants.</p> <p>23 Q. Do you know if MDE took any action in response to</p> <p>24 this concern at a time?</p> <p>25 A. I don't know the full extent of what has been, but</p>	<p>1 mostly focused on or completely focused on was the</p> <p>2 admissions process.</p> <p>3 Q. Okay. And at that time, were there any guidelines</p> <p>4 within MDE distinguishing sectarian and nonsectarian</p> <p>5 courses?</p> <p>6 A. I would have to defer to my colleagues in that</p> <p>7 program.</p> <p>8 MR. BAXTER: Okay. Ask the reporter to</p> <p>9 mark this as Exhibit 3.</p> <p>10 (Exhibit 3 was marked for</p> <p>11 identification.)</p> <p>12 BY MR. BAXTER:</p> <p>13 Q. Just take a minute and just review this document.</p> <p>14 A. Sure.</p> <p>15 Q. Okay. Are you familiar with this document?</p> <p>16 A. Yeah. Sorry. I nodded. I was just refreshing my</p> <p>17 memory on how this started.</p> <p>18 Q. Are you familiar with this document?</p> <p>19 A. Yes.</p> <p>20 Q. What is it?</p> <p>21 A. It is an email exchange between Beth Barsness and</p> <p>22 myself regarding an inquiry from a student about the</p> <p>23 admissions process at -- or a concern from a student</p> <p>24 regarding the admissions process at Northwestern</p> <p>25 University.</p>

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<p>1 Q. And this would have been a few months before you</p> <p>2 left your first stint at MDE; is that correct?</p> <p>3 A. Correct.</p> <p>4 Q. And was this the first time you had received any</p> <p>5 complaint on the PSEO admissions issue?</p> <p>6 A. To my recollection, this is the first -- the first</p> <p>7 time that I had seen a direct complaint from a</p> <p>8 student, but in 2616, I think, when the issue may</p> <p>9 have come up from our school finance team, there --</p> <p>10 I think there may have been contemplation that the</p> <p>11 team had heard about the -- from the parent. But I</p> <p>12 believe this is the first time I saw an actual</p> <p>13 complaint.</p> <p>14 Q. Did Beth Barsness reach out to you about the subject</p> <p>15 of this email other than what's in the email?</p> <p>16 A. I believe after we had meetings, including a call</p> <p>17 with, I think, someone from University of</p> <p>18 Northwestern, so I don't think this is -- this</p> <p>19 specific complaint, I think this is it, but the</p> <p>20 broader issue we, obviously, had discussion about it</p> <p>21 later.</p> <p>22 Q. You see that Beth emailed you on April 11th, right,</p> <p>23 and she said that each postsecondary institution</p> <p>24 sets its own requirements for PSEO enrollment. Do</p> <p>25 you see that, the third bullet point?</p>	<p>1 religious admission requirements made the courses</p> <p>2 nonsectarian. Is that a summary of your response?</p> <p>3 A. Yes. Setting it as a precondition of a course would</p> <p>4 make it nonsectarian. That was my opinion at the</p> <p>5 time.</p> <p>6 Q. And what was your -- the basis for that opinion?</p> <p>7 A. I believe that I thought that threshold for</p> <p>8 admissions into any course was a component of a</p> <p>9 program workhorse and, therefore, it made kind of</p> <p>10 the whole process nonsectarian.</p> <p>11 Q. And did your opinion change after you wrote this</p> <p>12 email?</p> <p>13 A. Ultimately, I accepted the decision that an</p> <p>14 administrative solution was not through basically</p> <p>15 saying that its precondition was not -- was not the</p> <p>16 right route and that we need to pursue a</p> <p>17 legislative -- clear legislative statutory</p> <p>18 guidelines around it.</p> <p>19 Q. And before you wrote this email, did you consult</p> <p>20 with anyone, other than your attorneys, about what</p> <p>21 to do in this situation?</p> <p>22 A. No.</p> <p>23 Q. And how about after you wrote the email?</p> <p>24 A. After the email was written and we had a range of</p> <p>25 conversations, including one with individuals from</p>
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<p>1 A. Correct.</p> <p>2 Q. She said that, "Their admissions process, which</p> <p>3 requires profession of faith, is discriminatory."</p> <p>4 Do you know if that was -- if she was making a</p> <p>5 statement on behalf of MDE with that, or was that</p> <p>6 her personal --</p> <p>7 A. I -- reading it here, I think that is her personal</p> <p>8 professional opinion as the administrator of the</p> <p>9 program, and she was seeking advice as to if that</p> <p>10 was in line with -- if that was the correct</p> <p>11 interpretation.</p> <p>12 Q. Okay. And then she said, "The PSEO statute does not</p> <p>13 address enrollment procedures," correct?</p> <p>14 A. Correct. That's what's in the email.</p> <p>15 Q. And was it your understanding that she thought that</p> <p>16 MDE couldn't do anything about this issue at that</p> <p>17 time?</p> <p>18 A. I think here, she is laying out what her analysis is</p> <p>19 of the practice and then where the guidelines exist</p> <p>20 in statute, and she's seeking advice on how can we</p> <p>21 administratively -- is there a way to</p> <p>22 administratively pursue a solution, and it appears</p> <p>23 that her suggestion is that we would like to see if</p> <p>24 there's an administrative process here.</p> <p>25 Q. Okay. And your response was essentially that having</p>	<p>1 -- or individual from University of Northwestern</p> <p>2 around the administrative process.</p> <p>3 Q. Okay. And what was the conclusion of that</p> <p>4 discussion process?</p> <p>5 A. Yeah. The conclusion of the process, it was</p> <p>6 determined that the administrative solution was not</p> <p>7 the route we could go and that we would need to seek</p> <p>8 a statutory solution.</p> <p>9 Q. So when you said here, "I would tell Northwestern</p> <p>10 they could not require that solution of PSEO</p> <p>11 students," did anybody ever carry out that</p> <p>12 instruction?</p> <p>13 A. My guess -- and I would -- I would have to -- again,</p> <p>14 I would have to defer to my colleagues in that</p> <p>15 division who would have conversations with the</p> <p>16 University of Northwestern is that my guess is based</p> <p>17 on resulting conversations that we had, I just</p> <p>18 remember if there was an explicit, like, you cannot</p> <p>19 do this, I think, but based on my recollection of</p> <p>20 the process where we then ultimately had a</p> <p>21 conversation with University of Northwestern, I</p> <p>22 swear, Dean of Admissions, and then, I believe, an</p> <p>23 attorney -- yes, with an attorney that -- that we</p> <p>24 communicated that that was the direction we were</p> <p>25 going to go. And then there was, obviously,</p>

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<p>1 pushback, and that resulted in the conversation.</p> <p>2 Q. Okay. If you had been asked at a time if the</p> <p>3 student had complained about a GPA requirement for</p> <p>4 admission, would you have responded at that time</p> <p>5 that Northwestern couldn't require a certain GPA</p> <p>6 standard for a student?</p> <p>7 A. I would have to familiarize with the statutes on</p> <p>8 hand --</p> <p>9 Q. Okay.</p> <p>10 A. -- to see if there would be any -- if there was a</p> <p>11 statute saying they could not prevent somebody</p> <p>12 without a -- that didn't meet a certain threshold,</p> <p>13 if that statute did not exist and they did that, I</p> <p>14 would question that.</p> <p>15 Q. You would question, meaning you would what?</p> <p>16 A. I would investigate and analyze the practice based</p> <p>17 on what the statutory structure is, or if there was</p> <p>18 a constitutional protection around being able to</p> <p>19 enter based on a GPA.</p> <p>20 Q. And what within the PSEO made you think that it was</p> <p>21 a problem to ask a religious requirement?</p> <p>22 A. I think it was not just the PSEO law but also the</p> <p>23 constitution.</p> <p>24 Q. And what about the constitution made you think that?</p> <p>25 A. That you shouldn't be able to -- that if a state</p>	<p>1 requirements?</p> <p>2 A. No.</p> <p>3 Q. That hadn't occurred to you before?</p> <p>4 A. I mean, it had occurred to me that could be the</p> <p>5 case, but I don't have familiarity with religious</p> <p>6 institutions in the higher education setting in</p> <p>7 other programs. And I'll --</p> <p>8 Q. Go ahead.</p> <p>9 A. This is -- we -- in very narrow areas or several</p> <p>10 areas, the Department -- Minnesota Department of</p> <p>11 Education interacts with the higher education space.</p> <p>12 There were separate state agencies and university</p> <p>13 systems that oversee the higher education system.</p> <p>14 So I know other states have them as combined</p> <p>15 entities. But we usually deal with, like, the early</p> <p>16 education to 12th grade setting, and in some</p> <p>17 situations, we deal with higher education.</p> <p>18 Q. And I'm just trying to understand your state of mind</p> <p>19 at the time. But is it fair to say that at that</p> <p>20 time, you thought that the constitution prohibited</p> <p>21 state funding going to a religious institution if it</p> <p>22 had religious participation requirements?</p> <p>23 MR. TIMMERMAN: I'll just object to the</p> <p>24 extent it calls for legal collection and</p> <p>25 exceeds the -- he's testifying in his</p>
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<p>1 provides funding for a high school student to attend</p> <p>2 a program out of their public school that they can</p> <p>3 be prevented from attending that program based on</p> <p>4 their religion.</p> <p>5 Q. Because of the --</p> <p>6 A. Or any class -- or any class.</p> <p>7 Q. Because of the State funding or why -- why?</p> <p>8 A. Yeah. Because it's a State program, State action</p> <p>9 and so based on protection for religious or any</p> <p>10 other protected class.</p> <p>11 Q. And was it at that -- at that time, was it your</p> <p>12 understanding that there was no State aid going to</p> <p>13 religious institutions that had a religious</p> <p>14 requirement for admission?</p> <p>15 A. My -- my understanding was that there was funding</p> <p>16 going to the institutions, and it wasn't about the</p> <p>17 funding going -- my understanding was that the</p> <p>18 pursuit of the policy was not about the</p> <p>19 institutions. It was about the practice that the</p> <p>20 institutions were implementing as a barrier to</p> <p>21 entry.</p> <p>22 Q. Were you aware of other state funding outside of the</p> <p>23 PSEO program going to religious institutions?</p> <p>24 A. To religious institutions, yes.</p> <p>25 Q. Religious institutions with religious admissions</p>	<p>1 personal capacity now as opposed to on</p> <p>2 behalf of the organization.</p> <p>3 BY MR. BAXTER:</p> <p>4 Q. Just asking your personal understanding, not what</p> <p>5 the law actually --</p> <p>6 A. Correct. My understanding is that -- I should say,</p> <p>7 yes, I understand your question. I would say it --</p> <p>8 the law prohibited higher-ed -- in this program,</p> <p>9 higher education institutions from establishing</p> <p>10 admissions requirements that prohibited somebody</p> <p>11 from entering based on a protected class and State</p> <p>12 funding to support that system. It just so happened</p> <p>13 in these cases it was a religious test that would</p> <p>14 prevent somebody from entering based on a religion</p> <p>15 on its face.</p> <p>16 Q. And at some point, did you come to understand that</p> <p>17 was an incorrect understanding, or is that still</p> <p>18 your understanding?</p> <p>19 A. My understanding that I came to is that we required</p> <p>20 a statute explicitly to be clear that that was not</p> <p>21 an allowed practice.</p> <p>22 Q. So then you came to understand that the constitution</p> <p>23 itself didn't prohibit that?</p> <p>24 A. I -- for clear practice -- for clear direction under</p> <p>25 the statute, I came to understand that we would need</p>

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<p>1 a statute for it.</p> <p>2 Q. Okay. Did -- did MDE ever consider, around that</p> <p>3 time or in the years that followed, bringing a</p> <p>4 lawsuit against these religious institutions for</p> <p>5 violating the constitution?</p> <p>6 A. No.</p> <p>7 Q. Did it ever consider bringing a lawsuit against</p> <p>8 Northwestern, Crown, or similar institutions for</p> <p>9 violating the Minnesota Human Rights Act?</p> <p>10 A. No.</p> <p>11 Q. Why not?</p> <p>12 A. I don't know.</p> <p>13 Q. Are you aware that the State has brought a lawsuit</p> <p>14 now claiming that Crown and Northwestern are</p> <p>15 violating the constitution by their religious</p> <p>16 admission requirements?</p> <p>17 A. As a component of this whole litigation?</p> <p>18 Q. Yes. Are you aware of that?</p> <p>19 A. Yes, a counterclaim, yeah.</p> <p>20 Q. And they brought a counterclaim also alleging that</p> <p>21 the schools are violating the Minnesota Human Rights</p> <p>22 Act?</p> <p>23 A. I mean, if that's the case, yes, I'm very familiar.</p> <p>24 I just haven't familiarized with that.</p> <p>25 Q. And do you have understanding why Minnesota or MDE</p>	<p>1 A. This is a communication between staff at the</p> <p>2 Department about a legal response from the</p> <p>3 University of Northwestern based on the</p> <p>4 administrative direction that we were looking to go</p> <p>5 around PSEO administration criteria.</p> <p>6 Q. So do you recall the last document I had you look</p> <p>7 at? It was a complaint from someone name Kamela</p> <p>8 Tran? Do you recall that?</p> <p>9 A. Yes, I do.</p> <p>10 Q. Was -- and this email that we're looking at right</p> <p>11 now, particularly the one at the bottom dated Friday</p> <p>12 June 15th, 2018 --</p> <p>13 A. Mm-hmm.</p> <p>14 Q. -- attaching a legal memorandum from Gray Plant</p> <p>15 Mooty; is that correct?</p> <p>16 A. Correct.</p> <p>17 Q. And was this letter send to MDE in response to --</p> <p>18 did it arise out of the MDE's treatment of the</p> <p>19 Kamela Tran complaint?</p> <p>20 A. I can't remember if it was specifically tied to the</p> <p>21 Kamela Tran complaint that was listed in the last</p> <p>22 exhibit. I do know that it was a result of the</p> <p>23 conversation that I believe I was a part of that --</p> <p>24 and if it wasn't a part of this one, it was a</p> <p>25 follow-up conversation with -- but with staff from</p>
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<p>1 never did that before now?</p> <p>2 MR. TIMMERMAN: Just object on the</p> <p>3 grounds, again, that this exceeds the</p> <p>4 30(b)(6) topics. So this is testimony in</p> <p>5 your personal capacity.</p> <p>6 But you can answer.</p> <p>7 THE WITNESS: My understand that we --</p> <p>8 in my involvement in the process, not as</p> <p>9 legal counsel, is that we tried to pursue an</p> <p>10 administrative solution and that my part of</p> <p>11 the process was that if that was not a -- an</p> <p>12 allowable route that we would pursue a</p> <p>13 legislative route.</p> <p>14 BY MR. BAXTER:</p> <p>15 Q. I'm going to ask the reporter to mark this as</p> <p>16 Exhibit Number 4.</p> <p>17 (Exhibit 4 was marked for</p> <p>18 identification.)</p> <p>19 BY MR. BAXTER:</p> <p>20 Q. Take a minute to look at this and let me know when</p> <p>21 you're finished.</p> <p>22 A. Okay.</p> <p>23 Q. Do you recognize this document?</p> <p>24 A. Yes.</p> <p>25 Q. And what is it?</p>	<p>1 University of Northwestern and, I believe, an</p> <p>2 attorney from Gray Plant Mooty.</p> <p>3 Q. And in response to the Kamela Tran complaint, you</p> <p>4 indicated that you thought that Northwestern was</p> <p>5 violating the -- a nonsectarian requirement; is that</p> <p>6 correct?</p> <p>7 A. Correct.</p> <p>8 Q. And had someone reached out to Northwestern to</p> <p>9 express that concern, or do you know what would</p> <p>10 triggered this, the legal letter that came in from</p> <p>11 Gray Plant Mooty?</p> <p>12 A. Just based on my recollection from the -- the</p> <p>13 documents here, the exhibits here, and kind of what</p> <p>14 I believe we discussed in the last set of questions</p> <p>15 is that my assumption is that staff would have</p> <p>16 reached out to the University of Northwestern based</p> <p>17 on kind of the thought process that we did as a team</p> <p>18 and then that -- what that then resulted in was the</p> <p>19 meeting we had in May with representatives from the</p> <p>20 University of Northwestern and their legal counsel.</p> <p>21 Q. Okay. And do you recall if anyone reached out</p> <p>22 specifically to convey to your counsel that</p> <p>23 Northwestern could not ask religious questions in</p> <p>24 the admission process?</p> <p>25 A. I don't have a recollection of any -- like, being</p>

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<p>1 notified of the outreach to University of</p> <p>2 Northwestern. I'm just making an assumption based</p> <p>3 on this line of events I'm drawing out of those</p> <p>4 emails.</p> <p>5 Q. Great. The next email in that chain of Exhibit 4 is</p> <p>6 from Paula Palmer to you and others. And at that</p> <p>7 time, Paula was your district supervisor; is that</p> <p>8 correct?</p> <p>9 A. No, she was not.</p> <p>10 Q. Remind, what --</p> <p>11 A. The she was another director.</p> <p>12 Q. Okay.</p> <p>13 A. I'm and have been a director, so we were on the same</p> <p>14 level, just different departments.</p> <p>15 Q. And she was the director of the --</p> <p>16 A. Officer of Career and College Success.</p> <p>17 Q. Right. Okay. She proposes bringing Mary Kay into</p> <p>18 the conversation. Who is Mary Kay?</p> <p>19 A. Correct. She was another director of -- hmm. She</p> <p>20 was the director of special education, so maybe</p> <p>21 she's talking about a different Mary Kay.</p> <p>22 Q. Okay. It wouldn't make sense to you that Mary Kay</p> <p>23 in special education would be involved in this</p> <p>24 conversation?</p> <p>25 A. Not the Mary Kay I'm thinking of.</p>	<p>1 Q. Okay. Do you have any recollection about what would</p> <p>2 have happened in that meeting?</p> <p>3 A. I believe we would have discussed -- and now let me</p> <p>4 just say, I may not have been able to make that</p> <p>5 meeting because it was in the middle of legislative</p> <p>6 session. So I may have not been able to and others</p> <p>7 had the meeting without me. But what we would have</p> <p>8 discussed is my assumption is what is the next</p> <p>9 pathway forward in terms of a solution in this</p> <p>10 space?</p> <p>11 Q. Okay. Beth Barsness then chimes in saying, "The</p> <p>12 faith statement issue came up in 2018 when Mary was</p> <p>13 supervisor." Who is the Mary there? Is she</p> <p>14 referring to Mary Barrie or Mary Kay?</p> <p>15 A. It would be Mary Barrie.</p> <p>16 Q. Marry Barrie. Okay. When she says, "The faith</p> <p>17 statement issue," do you know what she's referring</p> <p>18 to there?</p> <p>19 A. She -- my understanding -- my memory is that she's</p> <p>20 referring to the admission process in PSEO.</p> <p>21 Q. Okay. And then she -- the admission process in PSEO</p> <p>22 accepts certain schools?</p> <p>23 A. Admissions process of the -- let me rephrase that.</p> <p>24 The 2018 series of events pertaining to complaints</p> <p>25 that we had received that are discussed in the other</p>
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<p>1 Q. Okay. Who was Mary -- what was Mary Barrie's role</p> <p>2 at that time?</p> <p>3 A. I believe at that time, Mary Barrie was a supervisor</p> <p>4 in that space, and one of her -- part of her</p> <p>5 portfolio would have been college opportunities for</p> <p>6 high school students.</p> <p>7 Q. What about Daron Korte?</p> <p>8 A. Daron Korte, he, at a time, was an assistant</p> <p>9 commissioner who oversaw a range of issue areas. I</p> <p>10 don't remember if Career and College Success was in</p> <p>11 his portfolio, but he also is an attorney, and so</p> <p>12 his advice was sought just from an analysis</p> <p>13 perspective.</p> <p>14 Q. Was he working as an attorney at the time for the --</p> <p>15 A. I believe in a certain capacity, he may have been</p> <p>16 legal counsel, but I can't remember to what extent.</p> <p>17 Q. Okay. And how about Beth Barsness?</p> <p>18 A. Beth Barsness is a staff member in the Office of</p> <p>19 Career and College Success, and she is -- works most</p> <p>20 closely, my understanding is, with the PSEO program.</p> <p>21 Q. And Paula proposed getting together to review the</p> <p>22 letter; is that correct?</p> <p>23 A. Correct.</p> <p>24 Q. And did you have a meeting about the letter?</p> <p>25 A. I would assume we did.</p>	<p>1 exhibit and that we had ended up having</p> <p>2 conversations with the University of Northwestern</p> <p>3 that were around faith statements being used in the</p> <p>4 admission process for PSEO programs.</p> <p>5 Q. So far, I think we've seen only one complaint from</p> <p>6 Kamela Tran in 2018. Do you think there was others?</p> <p>7 A. I had been informed that other parents had reached</p> <p>8 out in the past, but I may or may not have seen</p> <p>9 those particular complaints or email summaries of</p> <p>10 those complaints.</p> <p>11 Q. At that time, did you have a sense of what schools</p> <p>12 in Minnesota had religious admissions requirements?</p> <p>13 A. "At that time" being?</p> <p>14 Q. When you got this email in 20 -- well, I guess in</p> <p>15 2018 when the initial email was going around.</p> <p>16 A. In 2018, my understanding was the college or the</p> <p>17 university we had received a complaint about and had</p> <p>18 conversations with, which was the University of</p> <p>19 Northwestern.</p> <p>20 Q. And you hadn't asked about other universities?</p> <p>21 A. That's --</p> <p>22 Q. Had you asked about other universities?</p> <p>23 A. I -- I may have, but this was just the one I recall</p> <p>24 being aware of at a time.</p> <p>25 Q. And do you recall any others that you thought at</p>

<p style="text-align: right;">Page 138</p> <p>1 that time had religious admissions requirements?</p> <p>2 A. I thought there had -- there could have been, but</p> <p>3 nothing was provided to demonstrate that.</p> <p>4 Q. I should have noted the last email from Beth</p> <p>5 Barsness came in 2023, so almost five years later?</p> <p>6 A. Correct.</p> <p>7 Q. What was the trigger for that email coming to you?</p> <p>8 Do you know? Well, it didn't come to you. It came</p> <p>9 to Eric Billiet; is that correct?</p> <p>10 A. Yes.</p> <p>11 Q. Do you know what the impetus for that email would</p> <p>12 have been?</p> <p>13 A. It probably would have been regarding -- if it's</p> <p>14 February 16th of 2013, our policy bill would have</p> <p>15 been out at the legislature, and we most likely</p> <p>16 would have had a hearing, and so it would have been</p> <p>17 an inquiry either from myself or another staff</p> <p>18 member about the history in this space and probably</p> <p>19 comment as -- as a refresher.</p> <p>20 Q. Who is Eric Billiet?</p> <p>21 A. I can't remember what division he's in, but I</p> <p>22 believe his title is a supervisor.</p> <p>23 Q. Okay. And did this email -- this February 16th</p> <p>24 email ever make it to you?</p> <p>25 A. I have reviewed this email.</p>	<p style="text-align: right;">Page 140</p> <p>1 before coming to this deposition?</p> <p>2 A. No.</p> <p>3 Q. You didn't produce it to counsel for production?</p> <p>4 A. I just -- I can't recall. I went through a range of</p> <p>5 items and documents. I can't recall if I did or</p> <p>6 not.</p> <p>7 Q. Okay. Then Beth says, "We met with Adosh numerous</p> <p>8 times about this." Do you recall what any of those</p> <p>9 meetings were about?</p> <p>10 A. Those were the meetings that were in -- like, in the</p> <p>11 2018 series around the discussion from the complaint</p> <p>12 from the last exhibit as well as the conversations</p> <p>13 leading up to the meeting we had with Northwestern</p> <p>14 University and follow-up we had after that.</p> <p>15 Q. And what happened in the meeting with Northwestern</p> <p>16 legal?</p> <p>17 A. We had a conversation about the practice. We had a</p> <p>18 conversation -- practice happening in admissions</p> <p>19 criteria. We had a conversation about what we were</p> <p>20 trying to do administratively. I believe staff</p> <p>21 talked about they received student or parent</p> <p>22 complaints. And then there was discussion with</p> <p>23 counsel about the, you know, strong belief that</p> <p>24 religious private colleges could participate in the</p> <p>25 program based on caselaw, and then -- then, I think,</p>
<p style="text-align: right;">Page 139</p> <p>1 Q. Okay. Did you review it in preparation for this</p> <p>2 deposition?</p> <p>3 A. Yes.</p> <p>4 Q. Before then, had this email ever made it to your</p> <p>5 attention?</p> <p>6 A. The 2018 line, yes, because I'm on there, but in</p> <p>7 terms of Beth and Eric, I don't believe so, but</p> <p>8 maybe.</p> <p>9 Q. Okay. You see Beth says, "We already had the</p> <p>10 Statement of Assurance Form in place." What is the</p> <p>11 Statement of Assurance Form?</p> <p>12 A. As I understand in this issue area, it's a statement</p> <p>13 of assurance around providing nonsectarian courses</p> <p>14 and a range of other issues. And I just bring up</p> <p>15 nonsectarian because that is the substance of our</p> <p>16 conversation.</p> <p>17 Q. And then she says, "Form A. We've submitted Form A</p> <p>18 ever since." Do you have any idea what --</p> <p>19 A. That's the propose -- legislative proposal process.</p> <p>20 Q. Could you explain that to me?</p> <p>21 A. It's just the document that we discussed earlier</p> <p>22 that explains kind of what the proposal is doing.</p> <p>23 Q. Okay.</p> <p>24 A. The background, the proposal, why?</p> <p>25 Q. That Form A, I think you said you didn't review that</p>	<p style="text-align: right;">Page 141</p> <p>1 after that conversation, we received the legal</p> <p>2 opinion.</p> <p>3 Q. Okay. And so at some point -- at the end, what did</p> <p>4 you tell Northwestern?</p> <p>5 A. At the end of?</p> <p>6 Q. Of this process. Like, there was this concern that</p> <p>7 they were doing something illegal? What did MDE end</p> <p>8 up telling Northwestern about their admissions</p> <p>9 process?</p> <p>10 A. In what -- like, what year?</p> <p>11 Q. Well, in -- in -- in response to the 2018 --</p> <p>12 A. 2018.</p> <p>13 Q. -- complaint?</p> <p>14 A. I believe what we ended up overall communicating is</p> <p>15 that the -- that's the direction we wanted to go.</p> <p>16 The result of the process was that we didn't have</p> <p>17 the administrative authority to pursue that route.</p> <p>18 And then, ultimately, what ended up happening in</p> <p>19 future legislative sessions is we pursued a</p> <p>20 statutory solution.</p> <p>21 Q. And at the end of this process in 2018, did MDE ever</p> <p>22 tell Northwestern, we think what you're doing</p> <p>23 violates the constitution?</p> <p>24 A. I don't know if we said it in that many -- in that</p> <p>25 exact phrasing, but I think in discussions with</p>

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<p>1 University of -- or Northwestern University and</p> <p>2 their team who was on the call, we just derived how</p> <p>3 we believed that the practice was discriminatory.</p> <p>4 Q. Okay. But did you tell -- did you believe that the</p> <p>5 practice was a violation of the United States</p> <p>6 constitution?</p> <p>7 A. In my personal capacity, yes.</p> <p>8 Q. Okay. And what is it in the constitution that binds</p> <p>9 a private religious institution like Northwestern</p> <p>10 entitles that it can discriminate on the basis of</p> <p>11 religion?</p> <p>12 MR. TIMMERMAN: Objection, calls for a</p> <p>13 legal conclusion, but, again, you can --</p> <p>14 BY MR. BAXTER:</p> <p>15 Q. To the extent you know.</p> <p>16 A. To the extent I know is that it was using State aid</p> <p>17 -- a State-funded program that pulled students from</p> <p>18 the school setting to participate in a program that</p> <p>19 had a process that screened them out based on --</p> <p>20 based on religion.</p> <p>21 Q. Okay. And did you ever tell MDE -- I'm sorry. Did</p> <p>22 MDE ever tell Northwestern that it thought</p> <p>23 Northwestern was violating the Minnesota Human</p> <p>24 Rights Act?</p> <p>25 A. I cannot recall if we, as an institution, informed</p>	<p>1 A. Yes.</p> <p>2 Q. Did you see it in preparation for -- review it in</p> <p>3 preparation for this deposition?</p> <p>4 A. I believe so.</p> <p>5 Q. Were you familiar with it before then?</p> <p>6 A. I'm not sure, not from my memory, but it's possible</p> <p>7 that I've seen this.</p> <p>8 Q. And what's your understanding of what this document</p> <p>9 is?</p> <p>10 A. This is a request from -- it appears to be</p> <p>11 University of Northwestern staff asking an applicant</p> <p>12 to supply an admissions question answer or fulfill</p> <p>13 an admissions question in writing that hadn't been</p> <p>14 provided to them or they didn't receive before. And</p> <p>15 then this was forwarded to MDE staff by, it appears,</p> <p>16 maybe the student or the -- it looks like MDE staff</p> <p>17 having their -- someone who happened to be a staff</p> <p>18 member of MDE forwarding this to the finance team to</p> <p>19 ask if that's an allowable practice and then a</p> <p>20 follow-up to Career and College Success staff who</p> <p>21 oversee PSEO to discuss about it.</p> <p>22 Q. And the complaint came from someone named Noah</p> <p>23 Berger, correct?</p> <p>24 A. Yes.</p> <p>25 Q. And he forwarded it to Denise Berger within MDE,</p>
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<p>1 them explicitly around Minnesota Human Rights Act.</p> <p>2 I can't remember if we did in that conversation, and</p> <p>3 I can't remember if -- if staff may have done that</p> <p>4 in other venues.</p> <p>5 Q. Okay. Would any of those communications have been</p> <p>6 in writing?</p> <p>7 A. It is possible if staff had been communicating via</p> <p>8 email, but I can't say for certain because I was not</p> <p>9 -- I was not in conversation outside of that phone</p> <p>10 conversation, I mean, the phone conversation we had</p> <p>11 with them regularly enough in terms of the</p> <p>12 administrative actions that our staff would have</p> <p>13 taken.</p> <p>14 Q. And in preparation for this deposition, did you ask</p> <p>15 any MDE staff to look for communications they had</p> <p>16 with Northwestern or Crown College or any other</p> <p>17 parties to this lawsuit?</p> <p>18 A. No.</p> <p>19 (Exhibit 5 was marked for</p> <p>20 identification.)</p> <p>21 BY MR. BAXTER:</p> <p>22 Q. The reporter has handed an exhibit marked as Exhibit</p> <p>23 5. Take a minute to review that.</p> <p>24 A. Okay.</p> <p>25 Q. Are you familiar with this document?</p>	<p>1 correct?</p> <p>2 A. Correct.</p> <p>3 Q. Do you know Denise Berger?</p> <p>4 A. I do not recall Denise Berger.</p> <p>5 Q. Okay. Do you know the relationship between Denise</p> <p>6 and Noah?</p> <p>7 A. It appears from this email that they are related.</p> <p>8 Q. Okay. And who is Jeanne Krill?</p> <p>9 A. Jeanne is a -- she works in the Education Finance</p> <p>10 division.</p> <p>11 Q. Okay. And do you know if there were any internal</p> <p>12 discussions at MDE about this email?</p> <p>13 A. I do not know. I would imagine there were.</p> <p>14 Q. Okay. And says, "If we have time in the meeting</p> <p>15 today, could we briefly chat about the email?" Do</p> <p>16 you recall being in a meeting where this email was</p> <p>17 discussed?</p> <p>18 A. I do not.</p> <p>19 Q. Okay. Are you aware of what happened to Denise</p> <p>20 Berger's older son whom she says had this same</p> <p>21 issue?</p> <p>22 A. I am not.</p> <p>23 Q. Are you aware that he did PSEO work at Hamline</p> <p>24 University?</p> <p>25 A. Based on the email, it appears so, but I'm not</p>

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<p>1 familiar with anything other than what's in the</p> <p>2 email.</p> <p>3 (Exhibit 6 was marked for</p> <p>4 identification.)</p> <p>5 BY MR. BAXTER:</p> <p>6 Q. The reporter's handed you a document marked Exhibit</p> <p>7 6. Could you take a minute to review that document?</p> <p>8 A. Okay.</p> <p>9 Q. Are you familiar with this document?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. And what is it?</p> <p>12 A. It is an inquiry from, it appears, St. Cloud State</p> <p>13 to Beth Barsness in our Career and College Success</p> <p>14 division. She works with PSEO about the practice of</p> <p>15 a private school accepting PSEO classes and their</p> <p>16 limitation on which -- which PSEO institution they</p> <p>17 would accept credits from and then a response from</p> <p>18 staff saying that they -- from staff saying that we</p> <p>19 have no authority over which -- how a private school</p> <p>20 would -- would be able to provide guardrails around</p> <p>21 which credits they receive from which institutions.</p> <p>22 Q. So is it your understanding that the student at</p> <p>23 Maranatha Christian Academy wanted to go get PSEO at</p> <p>24 St. Cloud, and her school told her she could only</p> <p>25 get it at Bethel or Northwestern. Is that a fair</p>	<p>1 Q. Okay. Do you see at the top of the document where</p> <p>2 Dr. Barrie says, "Save this one for Adosh in case he</p> <p>3 needs more ammunition"?</p> <p>4 A. Yes, I see that.</p> <p>5 Q. Why would that Mary have thought you were stocking</p> <p>6 ammunition?</p> <p>7 MR. TIMMERMAN: Objection, calls for</p> <p>8 speculation.</p> <p>9 THE WITNESS: Yeah. I can't speak to</p> <p>10 the terminology she's using, but my -- my</p> <p>11 understanding is that if generally in</p> <p>12 situations where we have legislative</p> <p>13 proposals that we put forward in multiple</p> <p>14 years, especially 2021 in January, that's</p> <p>15 where everyone in the MDE, and every</p> <p>16 government agency, is well aware that the</p> <p>17 legislative session is upon us, and they</p> <p>18 were aware anything could happen with the</p> <p>19 proposals they put forward. So staff, in</p> <p>20 situations like this, may cast a wide net in</p> <p>21 anything that even touches on the issue area</p> <p>22 of their proposal they put forward to us and</p> <p>23 makes it into the bill. So they might have</p> <p>24 thought the Government Relations team would</p> <p>25 have been interested in this scenario. My</p>
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<p>1 reading of that email?</p> <p>2 A. It would appear so.</p> <p>3 Q. So this was the case of a private secondary school</p> <p>4 restricting PSEO credits to only those offered at</p> <p>5 private religious schools; is that correct?</p> <p>6 A. Yeah. That's my understanding.</p> <p>7 Q. Were you brought into this conversation about this</p> <p>8 email?</p> <p>9 A. I can't remember if this was raised up to me or not.</p> <p>10 I can't remember an explicit conversation around</p> <p>11 this particular instance.</p> <p>12 Q. Okay. At that time, would you have thought that</p> <p>13 Maranatha Christian Academy was violating the</p> <p>14 constitution?</p> <p>15 MR. TIMMERMAN: Objection, calls for a</p> <p>16 legal conclusion.</p> <p>17 But you can answer in your personal</p> <p>18 capacity, if you have an opinion.</p> <p>19 THE WITNESS: Yeah. In my personal</p> <p>20 capacity, I would not have.</p> <p>21 BY MR. BAXTER:</p> <p>22 Q. And why not?</p> <p>23 A. That's a private school, and they are limiting it to</p> <p>24 these schools. Based on the information that was</p> <p>25 presented to me, I would not have.</p>	<p>1 guess is if we needed it as an example --</p> <p>2 yeah. That's my guess in terms of why they</p> <p>3 would want to save it for my attention.</p> <p>4 BY MR. BAXTER:</p> <p>5 Q. Did you ever express to staff at MDE that you were</p> <p>6 specifically looking for complaints like this?</p> <p>7 A. Our -- in this specific issue area, I can't recall.</p> <p>8 But in general, our instruction to staff is that if</p> <p>9 you have issues that come up that implicate</p> <p>10 legislative issues, whether it's our bill or</p> <p>11 another, please make us aware so that we know or so</p> <p>12 that we're up to date on current happening.</p> <p>13 Q. And remind me. Did you say you -- at this time, you</p> <p>14 were aware of the issue with Maranatha or you were</p> <p>15 not aware?</p> <p>16 A. I can't recall if I was or not.</p> <p>17 Q. Did you ever, at any time, have any concern whether</p> <p>18 Bethel might be violating the constitution or the</p> <p>19 Minnesota Human Rights Act?</p> <p>20 A. As it pertains to what we were trying to put</p> <p>21 parameters or guidelines around their legislative</p> <p>22 proposal, I did not contemplate Bethel or any -- I</p> <p>23 mean, I approached this -- the situations that came</p> <p>24 in front of me. This is an area we wanted to cure,</p> <p>25 but I do believe Bethel was brought up in the -- in</p>

<p style="text-align: right;">Page 150</p> <p>1 the last exhibit in the legal memo as one of the</p> <p>2 private school institutions, and I believe they were</p> <p>3 one of the litigants in the 1992 and 1993 caselaw.</p> <p>4 So I understood they maybe came under the umbrella</p> <p>5 at a time.</p> <p>6 I think I heard -- I believe I heard thirdhand</p> <p>7 or secondhand during the legislative session that</p> <p>8 they may have not have had an admissions question</p> <p>9 that would be implicated by this -- by this law, but</p> <p>10 I never went myself and checked their admission</p> <p>11 criteria.</p> <p>12 MR. BAXTER: We've been going about an</p> <p>13 hour. Why don't we take a ten-minute break</p> <p>14 and come back?</p> <p>15 MR. TIMMERMAN: Sure.</p> <p>16 (A recess was had from 1:31 p.m. until</p> <p>17 1:42 p.m.)</p> <p>18 (Exhibit 7 was marked for</p> <p>19 identification.)</p> <p>20 BY MR. BAXTER:</p> <p>21 Q. Could you take a look at this Exhibit 7, and let me</p> <p>22 know once you've had a chance to review it.</p> <p>23 A. Okay.</p> <p>24 Q. Prior to reading this right now, are you familiar</p> <p>25 with this document?</p>	<p style="text-align: right;">Page 152</p> <p>1 Q. Okay. Do you see where she says on the first page,</p> <p>2 "The policy is clear as are the statements and/or</p> <p>3 the practices of both PSIs." At that time, did you</p> <p>4 think the policy with regard to religious admissions</p> <p>5 -- or to religious admission or religious schools</p> <p>6 was clear?</p> <p>7 A. I am not sure if she's referring to -- I'm not sure</p> <p>8 what, exactly, she's referring to, "policies." I'll</p> <p>9 speak generally. I think I've seen from the</p> <p>10 preparation documents that they've included or</p> <p>11 contemplated two different areas. Our legislation</p> <p>12 contemplated admission criteria, but I've seen two</p> <p>13 areas contemplated, whether a course itself is</p> <p>14 sectarian or nonsectarian, and I'm not sure if this</p> <p>15 is referring to -- I'm not sure if this is referring</p> <p>16 to admissions or course content because it looks</p> <p>17 like the complaint may also be contemplating content</p> <p>18 areas as well, so I'm not sure if -- what the policy</p> <p>19 is she's referring to.</p> <p>20 Q. But by December 2021, it was clear within MDE that</p> <p>21 religious institutions offering PSEO credits could</p> <p>22 have religious admissions policies, correct?</p> <p>23 A. It was -- I'll phrase it like this: It was clear</p> <p>24 that we did not have an administrative solution for</p> <p>25 curtailing that.</p>
<p style="text-align: right;">Page 151</p> <p>1 A. Yes.</p> <p>2 Q. And did you read it in preparation for this</p> <p>3 deposition?</p> <p>4 A. I did, yes.</p> <p>5 Q. And had you -- were you familiar with it before</p> <p>6 then?</p> <p>7 A. I don't know if I saw this exact email exchange.</p> <p>8 Q. Okay. Is this the type of email that would have</p> <p>9 been brought to your attention generally?</p> <p>10 A. The email itself probably not, but in general tenor</p> <p>11 around we've gotten inquiries around this in</p> <p>12 conversation.</p> <p>13 Q. And do you recall any discussion you had internally</p> <p>14 at MDE that might have arisen from this email?</p> <p>15 A. It would have come in the context of are there</p> <p>16 anything new in this space when we asked staff, and</p> <p>17 they say we continued to receive -- would have been</p> <p>18 we continued to receive complaints in this space.</p> <p>19 Q. Okay. And who is Sally Reynolds?</p> <p>20 A. Sally Reynolds currently is the director of the</p> <p>21 Office of Career and College Success, which is the</p> <p>22 office or division that PSEO oversight for</p> <p>23 administration sits within. I believe at the time</p> <p>24 in 2021 -- yes. She was a supervisor of high school</p> <p>25 initiatives, which would have included PSEO.</p>	<p style="text-align: right;">Page 153</p> <p>1 Q. Okay. You see here that Mary Barrie says,</p> <p>2 "University of Northwestern gets more public dollars</p> <p>3 than any other PSI in the state, number one, and yet</p> <p>4 if you are not actively practicing your Christian</p> <p>5 faith, you cannot attend in person." Do you see</p> <p>6 that?</p> <p>7 A. I do.</p> <p>8 Q. And then you see where she says, "They will allow</p> <p>9 you to attend online so you to do not contaminate</p> <p>10 other students. Yes, they use that term."</p> <p>11 A. I see that.</p> <p>12 Q. Were you ever in a conversation with Northwestern</p> <p>13 where they use the term, "contaminate"?</p> <p>14 A. I do not remember them using that term.</p> <p>15 Q. Was Mary Barrie ever in a role where she would have</p> <p>16 had direct communication Northwestern?</p> <p>17 A. Let's see here. It is possible.</p> <p>18 Q. In what context?</p> <p>19 A. In the context of being a long-term employee who has</p> <p>20 a lot of experience in operating in this space.</p> <p>21 It's possible that she may have had oversight of the</p> <p>22 program in the past and had experience providing</p> <p>23 assistance for who I would imagine would be Beth and</p> <p>24 Sally in this space.</p> <p>25 Q. What is an education specialist?</p>

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<p>1 A. Education specialist is someone who works on</p> <p>2 specific issue areas. They're the expert that's</p> <p>3 brought in, and they do not have any supervising</p> <p>4 roles.</p> <p>5 Q. Okay. And would it be unusual for an education</p> <p>6 specialist to be in direct communication with</p> <p>7 private universities?</p> <p>8 A. As it pertains to the private university being an</p> <p>9 actor in a field that they work with, no. It would</p> <p>10 be completely normal.</p> <p>11 Q. Have you ever heard Mary Barrie express animosity</p> <p>12 towards religious institutions --</p> <p>13 A. No.</p> <p>14 Q. -- or their religious admission requirements?</p> <p>15 A. Not animosity. Concern.</p> <p>16 Q. Okay. And what has she said?</p> <p>17 A. Concern kind of in line with what's been kind of --</p> <p>18 - like, that it doesn't provide equitable access for</p> <p>19 all students to -- to opportunities that are State</p> <p>20 funded.</p> <p>21 Q. And has she ever expressed concern about equitable</p> <p>22 access based on other admissions requirements,</p> <p>23 nonreligious admission requirements?</p> <p>24 A. In the context of our legislative proposal needs to</p> <p>25 ensure that all protected classes are -- are</p>	<p>1 looks to be around the Statement of Assurance that</p> <p>2 their programs comply with 1224D09 sub 2 around the</p> <p>3 rigorous nature of courses and that they are</p> <p>4 nonsectarian courses.</p> <p>5 Q. Okay.</p> <p>6 A. And it looks like it lays out the intent of how --</p> <p>7 in these bullet points of what course could or</p> <p>8 couldn't be.</p> <p>9 Q. And those bullet points are, essentially, MDE</p> <p>10 definition of what it means to be nonsectarian,</p> <p>11 correct?</p> <p>12 A. Yes. This is our guidance of what would not be</p> <p>13 eligible for PSEO payment.</p> <p>14 Q. Okay. And were you familiar with this document</p> <p>15 before the lawsuit?</p> <p>16 A. I -- I had -- this specific document, I don't</p> <p>17 believe I was.</p> <p>18 Q. Okay.</p> <p>19 A. I -- I'm speaking to -- I was vaguely familiar or</p> <p>20 familiar with, like, we had guidelines or we had</p> <p>21 bullet points around, like, Statements of Assurance</p> <p>22 for different -- like, different things that</p> <p>23 institutions needed to fill out so that they -- to</p> <p>24 show they can were able to participate in the</p> <p>25 program. But this exchange or response from</p>
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<p>1 covered, but in terms of practices that have risen</p> <p>2 to any team members' attention at Department of</p> <p>3 Education, they have, I believe, all been around</p> <p>4 this, you know --</p> <p>5 Q. Around religion?</p> <p>6 A. -- admissions criteria that are around religion. So</p> <p>7 she -- and on reflecting upon any specific instance,</p> <p>8 it would be to that instance, which is religious</p> <p>9 admission criteria.</p> <p>10 (Exhibit 8 was marked for</p> <p>11 identification.)</p> <p>12 BY MR. BAXTER:</p> <p>13 Q. Could you look at this document, which has been</p> <p>14 marked as Exhibit 8, and then let me know when</p> <p>15 you're done.</p> <p>16 A. Okay.</p> <p>17 Q. What do you understand this to be?</p> <p>18 A. My understanding of this is this is Beth Barsness,</p> <p>19 who oversees the PSEO program or works with the PSEO</p> <p>20 program, sending a general email to eligible -- or I</p> <p>21 shouldn't say, "eligible," but to participating or</p> <p>22 aspiring, participating, not sure which,</p> <p>23 postsecondary institutions for the PSEO program to</p> <p>24 provide their assurances, and the Statement of</p> <p>25 Assurances is around -- at least this component, it</p>	<p>1 Ms. Hoefs I was not familiar with.</p> <p>2 Q. Okay. And did you -- do you know how this document</p> <p>3 came to be? Let me -- let me -- let me clarify. Do</p> <p>4 you know specifically --</p> <p>5 A. This, you're talking about?</p> <p>6 Q. -- the Statement of Assurances with the definition</p> <p>7 of what's -- you know, definition of nonsectarian</p> <p>8 courses, do you know when MDE started using this</p> <p>9 form?</p> <p>10 A. I do not recall explicitly, no.</p> <p>11 Q. And -- but is this a document that goes out to every</p> <p>12 PSEO school every year?</p> <p>13 A. I -- I -- to my understanding, it -- it -- I believe</p> <p>14 all participating PSEO institutions need to provide</p> <p>15 statements of assurance.</p> <p>16 Q. So obviously, this PSEO -- this form went to</p> <p>17 Northwestern and presumably would have gone to Crown</p> <p>18 as well?</p> <p>19 A. Yes, presumably.</p> <p>20 Q. And did you communicate to anyone about these forms,</p> <p>21 their purpose, specifically any communications</p> <p>22 around them of Northwestern and Crown?</p> <p>23 A. Not specifically with Northwestern and Crown. I</p> <p>24 know in conversations with -- I believe with</p> <p>25 legislative staff about common -- common practice in</p>

<p style="text-align: right;">Page 158</p> <p>1 all of our programs, we receive Statements of</p> <p>2 Assurance, and I believe we had let them know that</p> <p>3 in the course of conversation that we would have had</p> <p>4 Statements of Assurance for the program, just, like,</p> <p>5 a range of other programs. I can't remember if I</p> <p>6 mentioned this specific form or not.</p> <p>7 Q. Do you know how the three bullets points were</p> <p>8 developed as a definition of what qualifies as</p> <p>9 nonsectarian or not?</p> <p>10 A. I do not.</p> <p>11 Q. Do you see on the next-to-last page the email from</p> <p>12 Beth Barsness? This is MDE 1593. There's a</p> <p>13 paragraph that says, "We ask that you review the</p> <p>14 courses." Do you see that paragraph?</p> <p>15 A. Mm-hmm.</p> <p>16 Q. And then the next sentence says, "Merriam-Webster</p> <p>17 defines 'nonsectarian' as 'Not limited to a</p> <p>18 particular religious group or sect.'" Was that</p> <p>19 language an official part of MDE's interpretation of</p> <p>20 the nonsectarian requirement?</p> <p>21 MR. TIMMERMAN: Object to the extent --</p> <p>22 object to the extent that he's not here to</p> <p>23 testify on behalf of the organization</p> <p>24 regarding this issue, but you can testify</p> <p>25 with respect to your personal knowledge.</p>	<p style="text-align: right;">Page 160</p> <p>1 case, correct?</p> <p>2 A. Correct.</p> <p>3 Q. And this is a communication between Northwestern and</p> <p>4 MDE, correct?</p> <p>5 A. Correct.</p> <p>6 Q. Okay.</p> <p>7 (Exhibit 9 was marked for</p> <p>8 identification.)</p> <p>9 BY MR. BAXTER:</p> <p>10 Q. If you can take a look at this document marked</p> <p>11 Exhibit 9.</p> <p>12 A. Okay.</p> <p>13 Q. Are you familiar with this document?</p> <p>14 A. I am now, yes.</p> <p>15 Q. Had you read it before?</p> <p>16 A. I may have, but I -- you know, I familiarized myself</p> <p>17 with the content.</p> <p>18 Q. What's your understanding what this is about?</p> <p>19 A. This is an inquiry from, I believe, was a counselor</p> <p>20 at a charter school inquiring about how to handle a</p> <p>21 request from a student to accept credits taken at</p> <p>22 University of Northwestern. They've been framed as</p> <p>23 religious courses and talking about the</p> <p>24 understanding that they -- they can -- they have to</p> <p>25 be nonsectarian and wanting some information about</p>
<p style="text-align: right;">Page 159</p> <p>1 THE WITNESS: I would -- I was not a</p> <p>2 part of the construction of this. My</p> <p>3 feeling on the normal course and nature and</p> <p>4 my experience of how we create guidance</p> <p>5 would be that they're relying on</p> <p>6 Merriam-Webster to cite something that has</p> <p>7 some authority, and that that would be kind</p> <p>8 of like the guiding framework for the</p> <p>9 further bullet points that are there. I'm</p> <p>10 not sure if I completely answered your</p> <p>11 question, but...</p> <p>12 BY MR. BAXTER:</p> <p>13 Q. Sure. Well, is there -- would this guidance, like,</p> <p>14 defining "nonsectarian," would that be found</p> <p>15 somewhere in the official statement of MDE?</p> <p>16 A. It appears that this is right here in this official</p> <p>17 Statement of Assurance Form for participating</p> <p>18 institutions. So that would be official, I believe.</p> <p>19 Q. And -- but would there be anything in the</p> <p>20 regulations or code or are you aware of anywhere</p> <p>21 that you would be derived?</p> <p>22 A. No. I -- I am not aware of this existing in statute</p> <p>23 or in rule.</p> <p>24 Q. Okay. And you were designated to testify regarding</p> <p>25 communication between MDE and the plaintiffs in this</p>	<p style="text-align: right;">Page 161</p> <p>1 that response from Beth Barsness to this individual</p> <p>2 saying, by statute, course must be nonsectarian and</p> <p>3 MDE won't pay for them, and that it's -- but that it</p> <p>4 -- the high school has the authority to accept the</p> <p>5 courses or not.</p> <p>6 Q. Okay. And this was at a charter school; is that</p> <p>7 correct?</p> <p>8 A. Correct.</p> <p>9 Q. And is your -- you -- well, so if I'm understanding</p> <p>10 it correctly, Beth Barsness took the position that</p> <p>11 MDE wouldn't have to pay for the courses but that</p> <p>12 the charter school could count religious courses for</p> <p>13 credit?</p> <p>14 A. They can count those that qualify for credit. Let</p> <p>15 me see. Courses must be nonsectarian. Yes. MDE</p> <p>16 wouldn't -- won't pay for those courses, and so</p> <p>17 schools -- my understanding of her interpretation</p> <p>18 that schools can accept coursework that meet</p> <p>19 academic standards for -- so they have to -- courses</p> <p>20 or activities that meet academic standards can</p> <p>21 qualify to generate credit at a school.</p> <p>22 Q. And she said even religious credits could count at</p> <p>23 the school's discretion, right?</p> <p>24 A. Yes.</p> <p>25 Q. All right. Did this ever come to your attention</p>

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<p>1 when this was happening?</p> <p>2 A. No.</p> <p>3 Q. Okay. Would it have been your understanding that</p> <p>4 that would have been a violation of the constitution</p> <p>5 for a charter school to grant credit for religious</p> <p>6 courses?</p> <p>7 MR. TIMMERMAN: Objection, calls for</p> <p>8 legal conclusion.</p> <p>9 You can answer in your personal</p> <p>10 capacity to the extent you have an opinion.</p> <p>11 THE WITNESS: Yeah. I'm not -- I'm not</p> <p>12 the implementer or overseer of advice that</p> <p>13 the Department gives to districts around</p> <p>14 what qualifies for meeting State academic</p> <p>15 standards, and we're in a local control</p> <p>16 state, so we can't ultimately tell a</p> <p>17 district what is or isn't -- we can provide</p> <p>18 guidance and advice, but it's really up to</p> <p>19 the local district or charter school to</p> <p>20 determine what meets their academic</p> <p>21 standards.</p> <p>22 I believe if a parent wanted to audit</p> <p>23 that or someone wanted to -- if we had a law</p> <p>24 authorizing us to audit it, we could look at</p> <p>25 it, but it's a local control state. So</p>	<p>1 around the intent and the, like, firmness on the</p> <p>2 position and then moving into what the implications</p> <p>3 would be in terms of just practice, I believe.</p> <p>4 Q. Okay. And then the second bullet point, you say,</p> <p>5 "In the past, MDE hasn't had the clear authority</p> <p>6 based on state statute to determine admissions for</p> <p>7 PSEO students," is that correct?</p> <p>8 MR. TIMMERMAN: Object to the question</p> <p>9 to the extent it mischaracterizes the</p> <p>10 document. I don't believe he's copied on</p> <p>11 any of these.</p> <p>12 BY MR. BAXTER:</p> <p>13 Q. I'm just saying, do you see in the email where it</p> <p>14 says that?</p> <p>15 A. Yes, where it states the recollection of a purpose</p> <p>16 from --</p> <p>17 Q. Right, correct?</p> <p>18 A. I see that, yep.</p> <p>19 Q. And is that something you said on the call that MDE,</p> <p>20 in the past, hasn't had clear authority or something</p> <p>21 along those lines?</p> <p>22 A. "To determine admissions for PSEO students related</p> <p>23 to protected classes of people." I think that's,</p> <p>24 like, a general framing, accurate general framing.</p> <p>25 Q. And then do you recall saying on that call what's</p>
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<p>1 districts have to be kind of -- develop</p> <p>2 their ability in law to determine what meets</p> <p>3 the state academic standards.</p> <p>4 (Exhibit 10 was marked for</p> <p>5 identification.)</p> <p>6 BY MR. BAXTER:</p> <p>7 Q. The reporter handed you a document marked</p> <p>8 Exhibit 10; is that correct?</p> <p>9 A. Okay.</p> <p>10 Q. And before coming to this deposition, were you</p> <p>11 familiar with this document?</p> <p>12 A. I may have been. I had to read it, though, to</p> <p>13 familiarize myself.</p> <p>14 Q. Okay. I'm going to point your attention to the page</p> <p>15 that's labeled LOE621.</p> <p>16 A. Okay.</p> <p>17 Q. And do you see where this is a report where it says,</p> <p>18 "Jen Niska from Crown and I had a 30-minute call</p> <p>19 with the Government Relations staff from MDE"?</p> <p>20 A. Yes.</p> <p>21 Q. And this was on March 4th. Do you recall having a</p> <p>22 call around that time with Jen and Greg?</p> <p>23 A. Yes. It would have been sometime around then.</p> <p>24 Q. Okay. And what was the nature of that call?</p> <p>25 A. That, to my recollection, was around -- a little bit</p>	<p>1 recorded or what's summarized in the next sentence</p> <p>2 that only in recent years has MDE received</p> <p>3 affirmation from the State Attorney General's Office</p> <p>4 that they could have the authority to do so?</p> <p>5 A. I'm going to be frank. I'm a little bit confused by</p> <p>6 that framing because it seems like the second</p> <p>7 sentence is saying that we got authority from a</p> <p>8 state attorney general that we have the authority to</p> <p>9 do so but we would be seeking that authority. So I</p> <p>10 guess I can't agree with that framing of that</p> <p>11 sentence. I probably see what they're trying to</p> <p>12 say, but as it's written, I'm a little bit confused</p> <p>13 because it conflicts with the following sentence.</p> <p>14 Q. On that call, what did you share with them from what</p> <p>15 the AG had told you about the amendment?</p> <p>16 A. As it is framed here, what we had shared was that we</p> <p>17 were told that we did not have the authority via</p> <p>18 statute or administrative authority to limit the</p> <p>19 practice of admissions criteria based on a factor</p> <p>20 that would implicate someone's protected class and</p> <p>21 that then we determined that we would need to pursue</p> <p>22 legislative authority for it.</p> <p>23 Q. I'm asking from your own memory --</p> <p>24 A. Yeah.</p> <p>25 Q. -- what you said on that call -- what you shared on</p>

<p style="text-align: right;">Page 166</p> <p>1 that call from what the Attorney General had told</p> <p>2 you.</p> <p>3 A. Yeah, correct. I mean, that's -- that we didn't</p> <p>4 have the authority to do it administratively and</p> <p>5 there was no statute allowing it, and then that's --</p> <p>6 I mean, that's what we were told by the Attorney</p> <p>7 General, and that's what I would have communicated</p> <p>8 in that meeting.</p> <p>9 Q. Okay. Was there anything else the AG told you that</p> <p>10 you communicated in this call?</p> <p>11 A. I don't know. I'm trying to remember. Really,</p> <p>12 those are the things that we would have communicated</p> <p>13 in that call that we did not have the administrative</p> <p>14 authority to do it, that I guess that made it clear</p> <p>15 -- I think we affirmed -- I think we affirmed to the</p> <p>16 representative that -- that we knew that private --</p> <p>17 I'm paraphrasing -- that religiously-affiliated</p> <p>18 colleges could participate in the PSEO. That was</p> <p>19 made clear to us and clear based on caselaw, and we</p> <p>20 did not -- so we did not have administrative</p> <p>21 authority, could not participate, and we didn't --</p> <p>22 it was clear we didn't have statutory authority to</p> <p>23 do so.</p> <p>24 Q. So at this point, you knew from the AG that it was</p> <p>25 not a constitutional violation for religious</p>	<p style="text-align: right;">Page 168</p> <p>1 identification.)</p> <p>2 BY MR. BAXTER:</p> <p>3 Q. Were you familiar with this document before coming</p> <p>4 to this deposition?</p> <p>5 A. I have -- in reviewing it, I vaguely remember the</p> <p>6 exchange.</p> <p>7 Q. Okay. And this exchange, is it fair to say, was</p> <p>8 triggered by a request from Senator Mary Kunesh?</p> <p>9 A. Kunesh, yeah.</p> <p>10 Q. Kunesh. And as you understand it, what was the</p> <p>11 nature of her request?</p> <p>12 A. It was just about background information for</p> <p>13 participation by students and private PSEO</p> <p>14 providers.</p> <p>15 Q. And she wanted specifically to know if you had data</p> <p>16 on the districts or schools from which private PSEO</p> <p>17 institutions were pulling high schoolers; is that</p> <p>18 correct?</p> <p>19 A. Yes.</p> <p>20 Q. Do you have any sense why she would have wanted that</p> <p>21 information?</p> <p>22 A. Generally, when legislators ask kind of questions</p> <p>23 around this, they want to understand the space of</p> <p>24 students that institutions are serving. They really</p> <p>25 want to get an understanding of the implications of</p>
<p style="text-align: right;">Page 167</p> <p>1 institutions to use PSEO funds, even though they</p> <p>2 had religious admission requirements?</p> <p>3 MR. TIMMERMAN: Object to the form of</p> <p>4 the question and also instruct you not to</p> <p>5 answer to the extent that you would violate</p> <p>6 the attorney-client privilege or disclose</p> <p>7 privileged information beyond what you</p> <p>8 shared in this phone call.</p> <p>9 BY MR. BAXTER:</p> <p>10 Q. I'm not asking what you shared in this call. You</p> <p>11 shared at the time you understood it was not a</p> <p>12 problem for religious institution to have religious</p> <p>13 admissions requirements and still participate in</p> <p>14 PSEO.</p> <p>15 A. I did not phrase it as not a problem to participate</p> <p>16 in the program. That -- I communicated we did not</p> <p>17 have the administrate -- based on what we were told,</p> <p>18 what I communicated was that we did not have the</p> <p>19 statutory or administrative authority to limit it.</p> <p>20 Q. On this call, did you tell the participants that the</p> <p>21 AG had told you that there was no constitutional</p> <p>22 problem with the schools use of PSEO funds?</p> <p>23 A. I do not recall saying that.</p> <p>24 Q. Okay.</p> <p>25 (Exhibit 11 was marked for</p>	<p style="text-align: right;">Page 169</p> <p>1 policy that they're pursuing. What is the impact</p> <p>2 going to be on the students? What is the impact</p> <p>3 going to be on institution? What is the impact</p> <p>4 going to be on the districts, charters which</p> <p>5 includes -- nonpublic students, sorry -- -- which</p> <p>6 includes private schools and home school students.</p> <p>7 So it's really kind of getting an understanding of</p> <p>8 the lay of the land is my understanding from these</p> <p>9 inquiries in general.</p> <p>10 Q. Do you think she was possibly trying to know if her</p> <p>11 own constituent would be affected if Northwestern</p> <p>12 lost PEO -- PSEO funding?</p> <p>13 A. I can't speculate to that. I would -- I would say</p> <p>14 in general, legislators are always interested in how</p> <p>15 their constituents are impacted. So she's a chair,</p> <p>16 so she's got to think about the whole state.</p> <p>17 Q. If you look at page 1396, there's a suggestion here</p> <p>18 that there was interest in how they spend -- this is</p> <p>19 the second point at the very bottom of the page.</p> <p>20 She's also wondering of those institutions have to</p> <p>21 report to MDE if they spend their State dollars on</p> <p>22 recruitment and marketing. Is that something that</p> <p>23 MDE tracks?</p> <p>24 A. No. That issue is just -- it's coming just in</p> <p>25 general over the years for a range of different</p>

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<p>1 issues, and I don't believe that we track how much</p> <p>2 funds postsecondary institutions use for recruiting</p> <p>3 and marketing.</p> <p>4 Q. Okay. Do you know why that is of such interest?</p> <p>5 A. Well, how it came up to me, which I mentioned</p> <p>6 earlier in our conversation, in 14, which is the</p> <p>7 biggest issue, is just postsecondary institutions</p> <p>8 pull students from secondary settings, and</p> <p>9 especially in Greater Minnesota, rural Minnesota</p> <p>10 where there's not a lot of students, that pulls a</p> <p>11 significant amount of funding away from schools.</p> <p>12 And so there's that concern about maintaining</p> <p>13 students in settings.</p> <p>14 I'll just -- I'll just note that there's a</p> <p>15 competing program where high school profs can teach</p> <p>16 the same courses in their schools. So schools spend</p> <p>17 a lot of time saying, "Our courses are just as</p> <p>18 good." They offer a -- they also offer secondary</p> <p>19 and postsecondary credits, so stick on campus so we</p> <p>20 can continue to generate funding.</p> <p>21 Q. And what's that program you're referring to? Is</p> <p>22 that the PSOC?</p> <p>23 A. No. Concurrent enrollment is what's that's called.</p> <p>24 Q. What is PSOC?</p> <p>25 A. PSEO?</p>	<p>1 A. I don't know. That would be a question for the</p> <p>2 program implementation area.</p> <p>3 Q. Okay. If you look on page 1393. Do you see where</p> <p>4 Jeanne Krill, at the bottom, says, "I'm very</p> <p>5 surprised Beth does not comment about the annual</p> <p>6 Statement of Assurances sent to private colleges.</p> <p>7 That's material to the issue and the bill author.</p> <p>8 Others would appreciate knowing this." Do you see</p> <p>9 that?</p> <p>10 A. Mm-hmm.</p> <p>11 Q. Do you have any idea why Jeanne would have thought</p> <p>12 that the Statement of Assurances or the nonsectarian</p> <p>13 requirement would have been of interest during the</p> <p>14 amendment process?</p> <p>15 A. My assumption here is that the -- I'm just trying to</p> <p>16 see if this was mentioned in the framing. My</p> <p>17 understanding is that Jeanne most likely knew that</p> <p>18 the proposal that we had, the amendment that we're</p> <p>19 referring to was in our bill, proposed around that,</p> <p>20 and that she felt that the nonsectarian course issue</p> <p>21 that is contemplated by the Statements of Assurance</p> <p>22 we reviewed in the other exhibits was material to</p> <p>23 this question, which I don't necessarily know if it</p> <p>24 was. So that's probably why she was bringing it up</p> <p>25 because we were talking about this issue area in</p>
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<p>1 Q. PSOC, does that mean anything to you?</p> <p>2 A. Say it again.</p> <p>3 Q. PSOC.</p> <p>4 A. No.</p> <p>5 Q. I'm now on page 1396 at the top. It also says,</p> <p>6 "Finally, she'd like to know if private colleges</p> <p>7 need to submit to MDE a list of the courses they</p> <p>8 offer." And then the answer is, "All PSIs sign a</p> <p>9 Statement of Assurance." Does MDE otherwise track</p> <p>10 the courses that are offered -- the PSEO courses</p> <p>11 that are offered at private institutions?</p> <p>12 A. Yeah. I don't think in any regular way we track</p> <p>13 that.</p> <p>14 Q. Okay. And do you ever commit -- perform audits on</p> <p>15 schools to see if they're providing appropriate</p> <p>16 courses?</p> <p>17 A. I don't know if we do in this program. I feel like</p> <p>18 there are other program areas that have engaged in</p> <p>19 audits of particular schools. I'm not sure if we do</p> <p>20 of postsecondary institutions. I don't want to say</p> <p>21 one way or another if we have or haven't in the</p> <p>22 history of this program.</p> <p>23 Q. As far as you know, has MDE ever conducted a -- a</p> <p>24 review of whether religious PSEO schools are</p> <p>25 providing only nonsectarian courses?</p>	<p>1 general. And I think from other exhibits, she --</p> <p>2 it's indicated that she is familiar with this topic</p> <p>3 area and has been engaged in it.</p> <p>4 Q. Okay. Do you see at the -- on 1392 where Lehmann,</p> <p>5 Daley Lehmann says, "Remind him that part of the</p> <p>6 governor's proposals includes a provision that made</p> <p>7 sure private colleges do not make students take a</p> <p>8 statement of faith before they take their classes."</p> <p>9 Do you know who that's referring to, "remind him"?</p> <p>10 A. I don't -- let's see. I do not.</p> <p>11 Q. Okay. And then right above that, it says, "If they</p> <p>12 want to take off their guardrails, then I guess they</p> <p>13 can, but school finance can be held responsible."</p> <p>14 Do you have any sense what she might have been</p> <p>15 thinking there?</p> <p>16 A. I don't.</p> <p>17 Q. Okay. Did Senator Kunesh get the data that she</p> <p>18 requested?</p> <p>19 A. She would have.</p> <p>20 Q. And do you know what her response was?</p> <p>21 A. I do not recall exactly what the response is.</p> <p>22 Q. Do you have any idea what the data showed?</p> <p>23 A. Other than what's in here, what we provided in this</p> <p>24 set of questions that's on 1394 to 1395, the draft</p> <p>25 email that Megan Ariola drafted to send to Senator</p>

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<p>1 Kunesh and then with the suggestions added in to</p> <p>2 Beth, my assumption is that that's probably what it</p> <p>3 would have -- what it would have shared.</p> <p>4 Q. Okay. As the director of communication -- or of</p> <p>5 government affairs, would you have reviewed it</p> <p>6 before it went over to the senator?</p> <p>7 A. Yeah. I most -- I would have. There are times</p> <p>8 where I would have been caught up with other things</p> <p>9 and don't have time, necessarily to review</p> <p>10 everything.</p> <p>11 (Exhibit 12 was marked for</p> <p>12 identification.)</p> <p>13 BY MR. BAXTER:</p> <p>14 Q. You've had a chance to review the document?</p> <p>15 A. Yes.</p> <p>16 Q. Have you -- do you recall it from before coming to</p> <p>17 this deposition?</p> <p>18 A. I do recall the general, like, request around data.</p> <p>19 Q. And this is a follow-up request from Senator Kunesh,</p> <p>20 right?</p> <p>21 A. Yes.</p> <p>22 Q. And she was asking for info on race, ethnicity,</p> <p>23 religion for PSEO students and also whether they</p> <p>24 were fully online or in person; is that correct?</p> <p>25 A. Correct.</p>	<p>1 A. Yes.</p> <p>2 Q. It says, "The commissioner would like to see this</p> <p>3 information first." Do you see that?</p> <p>4 A. Mm-hmm.</p> <p>5 Q. Had he reached out to you about this? Or how did</p> <p>6 you know about this request?</p> <p>7 A. I would have provided him an update on just kind of</p> <p>8 what inquiries or what questions we were getting</p> <p>9 from the legislature in general, most likely</p> <p>10 probably on, like, more the higher level issues or</p> <p>11 just, say, controversial issues, issues getting</p> <p>12 public attention. At this point, given the outreach</p> <p>13 and conversations we had, we -- I mentioned this is</p> <p>14 one area we were getting inquiry, and he kind of</p> <p>15 wanted to know what --</p> <p>16 Q. Did he ask to see the data from the prior request</p> <p>17 from Senator Kunesh?</p> <p>18 A. I do not recall.</p> <p>19 Q. Do you know why he was particularly interested in</p> <p>20 this data?</p> <p>21 A. I think as an update on wanting to know what our</p> <p>22 legislative partners were seeing, because it may</p> <p>23 come up in conversations, it's normal for our</p> <p>24 commissioners in general to have conversations with</p> <p>25 chairs. And so if it was referenced in any</p>
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<p>1 Q. Do you have any knowledge why she wanted this</p> <p>2 information?</p> <p>3 A. It would have been pertaining as to -- as a</p> <p>4 follow-up to an earlier question on our</p> <p>5 understanding of the impact of the proposal, the</p> <p>6 amendment that they were proposing.</p> <p>7 Q. And was any of the information that she requested,</p> <p>8 was it ultimately given to her?</p> <p>9 A. I believe the limited set of what she was asking for</p> <p>10 was given, and based on what we collect and what we</p> <p>11 do not collect.</p> <p>12 Q. Okay. And do you have the -- and that's why you</p> <p>13 say, "maybe limited"?</p> <p>14 A. I think she asked for on campus, off campus. It's</p> <p>15 just -- there's just data we don't collect.</p> <p>16 Q. What -- what of that data would you have collected?</p> <p>17 Would you have information on the race and ethnicity</p> <p>18 of PSEO students?</p> <p>19 A. Yes.</p> <p>20 Q. Of their religious --</p> <p>21 A. I don't believe we carry -- we collect that</p> <p>22 information.</p> <p>23 Q. Do you track online versus off-campus participation?</p> <p>24 A. I don't believe we do.</p> <p>25 Q. Do you see on page MDE 1717?</p>	<p>1 discussion, he wanted to be just kind of up to</p> <p>2 speed.</p> <p>3 Q. Was there anything particularly interesting about</p> <p>4 the data?</p> <p>5 A. I cannot recall what the data explicitly said.</p> <p>6 Q. Okay. Did you review the data?</p> <p>7 A. It is included. I -- I know there's data on race</p> <p>8 and ethnicity participation in PSEO courses in our</p> <p>9 report -- taking report, which I generally reviewed,</p> <p>10 but I did not review the data included in this</p> <p>11 request.</p> <p>12 Q. Okay. And is there any reason why you didn't?</p> <p>13 A. In preparation for this?</p> <p>14 Q. No. I'm saying at the time.</p> <p>15 A. Oh, I must have looked at it if I reported it to the</p> <p>16 commissioner. I just don't remember right now.</p> <p>17 Q. Okay. And you didn't look at it in preparation for</p> <p>18 this meeting?</p> <p>19 A. No.</p> <p>20 Q. Okay. Do you have any idea why Sally Reynolds would</p> <p>21 have made the statement, "Interesting data"?</p> <p>22 A. I do not.</p> <p>23 Q. Do you recall there being any conversation with</p> <p>24 other data within MDE?</p> <p>25 A. Other than me prepping the data to the commissioner,</p>

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<p>1 I don't believe I was engaged in any conversations.</p> <p>2 Q. Okay. And is there anything from this email that</p> <p>3 you can see that would have caused -- might have</p> <p>4 caused Beth Barsness to say that she thought the</p> <p>5 email chain was pretty interesting too?</p> <p>6 A. Let's take a look. I think it's just a reflection</p> <p>7 on -- an interest in how the conversation in general</p> <p>8 is going on an issue they've already been involved</p> <p>9 with for quite some time.</p> <p>10 Q. That's just your speculation, right?</p> <p>11 A. Yes.</p> <p>12 Q. Do you think they would have found it odd that the</p> <p>13 commissioner checked in and wanted to see the data?</p> <p>14 A. I don't think it would have been odd. It would have</p> <p>15 been an indication that, okay, this issue, clearly,</p> <p>16 is elevated, but it's not abnormal for a</p> <p>17 commissioner to be referenced as being interested in</p> <p>18 -- in data or in -- in information in general.</p> <p>19 Q. Did it raise red flags, in your mind, that the</p> <p>20 Senator wanted information about the race and</p> <p>21 ethnicity and makeup of Crown and Northwestern in</p> <p>22 particular?</p> <p>23 A. Not -- I mean, not particularly red flags. I</p> <p>24 wouldn't say, "red flags." I would just say that --</p> <p>25 I was interested in them -- her just wanting to</p>	<p>1 the Department. I'm going to speculate that this</p> <p>2 outreach happened to the legislators as well. And</p> <p>3 so in response, they're like, okay. These entities</p> <p>4 that are concerned about the impact on the programs,</p> <p>5 they -- this is my speculation, is that the</p> <p>6 legislators wanted to know what the impact was in</p> <p>7 the programs that were reaching out to them.</p> <p>8 Q. Were you aware at the that time that Crown and</p> <p>9 Northwestern were understood to be the only two</p> <p>10 schools affected by the amendment?</p> <p>11 A. I don't know on this particular date. I think I</p> <p>12 learned through secondhand or thirdhand that, like,</p> <p>13 over the course of, I think it was sometime in</p> <p>14 March, that no other institution maybe had -- I</p> <p>15 still don't know if this is the case. I mean, maybe</p> <p>16 you're telling me. But I learned that no -- or was</p> <p>17 told that no other institution than those two had</p> <p>18 the type of admissions process that that institution</p> <p>19 felt would not comply with the proposal that we were</p> <p>20 putting forward.</p> <p>21 Q. At some point, were you aware that, for example,</p> <p>22 Senators on the floor were acknowledging that the</p> <p>23 legislation would only impact two religious schools?</p> <p>24 A. I remember hearing statements in the legislature on</p> <p>25 the floor discussion reference those two schools.</p>
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<p>1 understand all the different angles of it. It was</p> <p>2 just, you know, sometimes senators can -- or</p> <p>3 representatives dig into issues further than I would</p> <p>4 have dug into, so...</p> <p>5 Q. But was the issue wanting to know that information</p> <p>6 that it would be pursued for all the PSEO schools?</p> <p>7 MR. TIMMERMAN: Objection, calls for</p> <p>8 speculation.</p> <p>9 You can answer.</p> <p>10 THE WITNESS: Yeah. I'm not sure about</p> <p>11 what her overall intent was, but I think it</p> <p>12 does -- at private postsecondary</p> <p>13 institutions, so...</p> <p>14 BY MR. BAXTER:</p> <p>15 Q. And it said that she was particularly interested,</p> <p>16 right. If you look on 17, 18, the main request is</p> <p>17 for race, ethnicity of the student bodies of Crown</p> <p>18 and Northwestern, correct?</p> <p>19 A. Correct.</p> <p>20 Q. Did that raise any red flags in your mind that MDE</p> <p>21 would be engaged in religious targeting by looking</p> <p>22 at that information for just two religious schools?</p> <p>23 A. No. I think that this was happening</p> <p>24 contemporaneously with the public outreach that</p> <p>25 Crown and Northwestern were engaged in that point to</p>	<p>1 From all of what was stated on the public record,</p> <p>2 I'm not entirely sure if that statement was made,</p> <p>3 that these are the only two institutions.</p> <p>4 Q. They never triggered any concern in your mind that</p> <p>5 MDE's proposal might be an example of religious</p> <p>6 targeting?</p> <p>7 A. No. I mean, I think concern from me, I think we</p> <p>8 were, obviously, always willing to hear people.</p> <p>9 That's, obviously, one of the reasons why we took</p> <p>10 the meetings with Northwestern. It's just good</p> <p>11 partnership, right, to hear their concerns. So</p> <p>12 those were, obviously, raised. I think that</p> <p>13 argument was raised by the institutions. The</p> <p>14 argument was raised by the legislators to us.</p> <p>15 I think our approach has always been that it</p> <p>16 wasn't targeting of any type. We were trying to</p> <p>17 approach equitable access to institution, and that's</p> <p>18 why it was based off of any protected class.</p> <p>19 Q. And did anybody within MDE ever express concerns</p> <p>20 about religious targeting?</p> <p>21 A. No, not to me.</p> <p>22 (Exhibit 13 was marked for</p> <p>23 identification.)</p> <p>24 BY MR. BAXTER:</p> <p>25 Q. Take a look at this document that's been marked</p>

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<p>1 Exhibit 12 -- or 13.</p> <p>2 A. Okay.</p> <p>3 Q. Okay. Have you reviewed this document before this</p> <p>4 deposition?</p> <p>5 A. I have not.</p> <p>6 Q. Okay. Is it fair to say that this appears to be a</p> <p>7 summary of a conversation -- in part, a conversation</p> <p>8 that you had with Congressman -- or Representative</p> <p>9 Bakeberg?</p> <p>10 A. This may have either been a conversation I had with</p> <p>11 him one on one, or it could have been questions to</p> <p>12 me. What date was this? The 16th. It could have</p> <p>13 been conversation or questions to me that I had on</p> <p>14 the stand.</p> <p>15 Q. When you say --</p> <p>16 A. Testifying table in a committee. Sorry.</p> <p>17 Q. Okay. What -- how many conversations have you had</p> <p>18 with -- one-on-one conversations have you had with</p> <p>19 Representative Bakeberg around the amendment?</p> <p>20 A. Maybe one or two.</p> <p>21 Q. Okay. And do you remember when those were?</p> <p>22 A. Probably around March. The -- I'm guessing --</p> <p>23 whenever this issue, I think, was raised, it would</p> <p>24 have been in the range of probably middle of</p> <p>25 February to probably the middle of April is when</p>	<p>1 initially. That's what I would have said at the</p> <p>2 time.</p> <p>3 Q. Informed by the AG?</p> <p>4 A. Yes.</p> <p>5 Q. When did the AG tell you that?</p> <p>6 A. I would have stated that it would have happened, I</p> <p>7 believe, in the 2018 period.</p> <p>8 Q. Okay. And was that -- do you remember a</p> <p>9 conversation with the AG about this?</p> <p>10 A. I -- I remember a conversation about this topic with</p> <p>11 someone from the AG's office about -- about this or</p> <p>12 about the initial, like, root conversation.</p> <p>13 Q. You said that the AG told you the MDE couldn't</p> <p>14 pursue this initially. I'm asking if you remember</p> <p>15 that conversation.</p> <p>16 A. Yes, I do.</p> <p>17 Q. And which AG was that?</p> <p>18 A. Kathryn Woodruff.</p> <p>19 Q. Okay. So here, he says he wasn't sure if it was</p> <p>20 Ellison or Swanson, but you think it was --</p> <p>21 A. Oh, my apologies. When he's referring to "AG," he's</p> <p>22 referring to the actual attorney, whether it's --</p> <p>23 I'm assuming Lori Swanson, who was, up until 2018,</p> <p>24 and current Attorney General Keith Ellison. I would</p> <p>25 always frame it as "The Attorney General's Office"</p>
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<p>1 those one or two -- clearly, this happened first</p> <p>2 couple weeks of march.</p> <p>3 Q. Okay. And where did those conversations happen?</p> <p>4 A. Probably in the committee room, in the committee</p> <p>5 room, which is in the Capitol.</p> <p>6 Q. And those would have been, like, standing around in</p> <p>7 the committee room or --</p> <p>8 A. Standing in the hallway or those type of situations.</p> <p>9 There are one or two times that he called in,</p> <p>10 though. The reason I'm not being precise is because</p> <p>11 he -- he talked to me on a range of issues pretty</p> <p>12 regularly.</p> <p>13 Q. Do you see where it says, the second bullet point,</p> <p>14 "the Department has had five years to address this</p> <p>15 issue." If they had legal standing to stop the</p> <p>16 statement of faith, they would have, in my opinion"?</p> <p>17 A. I see that, correct.</p> <p>18 Q. Did you tell Bakeberg in a conversation something</p> <p>19 along the lines that the AG told you that the MDE</p> <p>20 could not pursue this initially?</p> <p>21 A. I believe that I had, in questions or framing the</p> <p>22 issue when there was a question, even in committee,</p> <p>23 I believe, I had said that one of the reasons why</p> <p>24 we're pursuing this legislatively is because we were</p> <p>25 informed at the time that we could not pursue this</p>	<p>1 when speaking about it. So I would be speaking to,</p> <p>2 like, an AG assistant, assistant or associate, but</p> <p>3 the individual from the office was Kathy Woodruff.</p> <p>4 Q. Kathy Woodruff?</p> <p>5 A. Yes.</p> <p>6 Q. And what, exactly, did Kathy say to you?</p> <p>7 MR. TIMMERMAN: I'm going to object on</p> <p>8 this line of questioning. It calls for</p> <p>9 privileged information.</p> <p>10 MR. BAXTER: We'll he's already -- he</p> <p>11 said what she said.</p> <p>12 BY MR. BAXTER:</p> <p>13 Q. So I'm just asking what she said to you?</p> <p>14 MR. TIMMERMAN: He shared. What he</p> <p>15 shared publicly is one thing. The specifics</p> <p>16 that she told him, I'm going to instruct him</p> <p>17 not to answer.</p> <p>18 MR. BAXTER: We'll hold that -- reserve</p> <p>19 that question for later, then.</p> <p>20 BY MR. BAXTER:</p> <p>21 Q. The next couple lines down, he says that Bakeberg</p> <p>22 shared with you that the bill was seen as an attack</p> <p>23 of people -- attack on people of faith. Do you see</p> <p>24 that?</p> <p>25 A. Yes, I do.</p>


<p style="text-align: right;">Page 186</p> <p>1 Q. Then he says, "Commissioner Jett was surprised by</p> <p>2 that comment." Is that something you told him, that</p> <p>3 Commissioner Jett was surprised?</p> <p>4 A. I don't recall saying that to him.</p> <p>5 Q. Did you ever have a conversation with Commissioner</p> <p>6 Jett about -- about whether this bill was an attack</p> <p>7 on people of faith?</p> <p>8 A. I would not have framed it as such.</p> <p>9 Q. And how did you frame it?</p> <p>10 A. I would have framed it as people are -- opponents of</p> <p>11 the proposal are claiming that it is an attack on</p> <p>12 faith as -- in the context of explaining what</p> <p>13 proponents and opponents are saying to give them a</p> <p>14 fair lay of the land.</p> <p>15 Q. Did you have that conversation with Commissioner</p> <p>16 Jett?</p> <p>17 A. I cannot recall a specific conversation, but in</p> <p>18 updates to the commissioner, I regularly give him</p> <p>19 updates of what the more heavier things that are</p> <p>20 said, and I -- I probably informed him that that is</p> <p>21 one of the complaints about the proposal.</p> <p>22 Q. And how did he respond to the knowledge that that</p> <p>23 was one of the complaints?</p> <p>24 A. To me?</p> <p>25 Q. Yes.</p>	<p style="text-align: right;">Page 188</p> <p>1 working towards resolution, making relationship,</p> <p>2 yes. He -- it's my understanding that he had</p> <p>3 meetings with the presidents of the two, you know,</p> <p>4 colleges/universities.</p> <p>5 Q. Okay. Then it says, "Other MDE staff were</p> <p>6 uncomfortable." Is that something you told</p> <p>7 Representative Bakeberg?</p> <p>8 A. No. I don't know how I would have used the</p> <p>9 terminology "uncomfortable."</p> <p>10 Q. Okay. Did you ever feel like anyone at MDE was</p> <p>11 uncomfortable with the proposal as its meaning and</p> <p>12 impact came to light through the 2022 session?</p> <p>13 A. Did anybody express discomfort with the proposal</p> <p>14 that we put forward?</p> <p>15 Q. Right.</p> <p>16 A. No, never.</p> <p>17 Q. It says that "MDE has dug in on this because they</p> <p>18 feel a kid in St. Boni cannot go to Crown unless</p> <p>19 they agree with the statement of faith." Is that</p> <p>20 something you conveyed?</p> <p>21 A. No. I would have not used that reference or that</p> <p>22 example.</p> <p>23 Q. Which reference?</p> <p>24 A. "St. Boni cannot go to Crown," I'm not sure where</p> <p>25 St. Boni is.</p>
<p style="text-align: right;">Page 187</p> <p>1 A. To me, I think he probably would have reacted with</p> <p>2 -- I don't know if I would say surprised but a</p> <p>3 little bit of an eyebrow raise, probably. But I</p> <p>4 can't recall what it would have been, but this is</p> <p>5 just speculation. It's a fast-paced environment.</p> <p>6 Q. Is there any specific conversation about this topic</p> <p>7 that you remember having with Commissioner Jett?</p> <p>8 A. I can't remember lines of lines, but I do kind of</p> <p>9 remember providing him updates that this is how the</p> <p>10 conversation is going at the -- at the Capitol.</p> <p>11 These are the types of, you know, data that's being</p> <p>12 requested. These are what you're going to probably</p> <p>13 hear about from -- or hear about that's being said</p> <p>14 in committee or on the floor.</p> <p>15 Q. And from that conversation, do you remember how he</p> <p>16 reacted?</p> <p>17 A. I think after the first few kind of -- first few</p> <p>18 updates, I think he then became kind of</p> <p>19 understanding there are people going to be</p> <p>20 opponents. There are people are going to be</p> <p>21 proponents. Then I think he responded kind of</p> <p>22 understanding.</p> <p>23 Q. Did he ever express interest in trying to resolve</p> <p>24 the religious institutions' concerns?</p> <p>25 A. To the extent of having conversations with people as</p>	<p style="text-align: right;">Page 189</p> <p>1 Q. St. Bonifacius is where Crown is located, I believe,</p> <p>2 but --</p> <p>3 A. Is that -- I mean, I -- I'm just going to conjecture</p> <p>4 here for context. I wonder if Representative</p> <p>5 Bakeberg's district is near Crown, so that's --</p> <p>6 Q. You don't remember ever expressing concern about the</p> <p>7 distance students might have to go to get into a</p> <p>8 nonreligious school if they couldn't get into Crown?</p> <p>9 A. Oh, on the distance portion, yes. There were</p> <p>10 discussions around an example of why having -- so</p> <p>11 there was a discussion point around could students</p> <p>12 just go to another entity. And so distance became a</p> <p>13 discussion point, I think, in that context.</p> <p>14 Q. Okay. And distance would be an issue regardless of</p> <p>15 whether a school was religious or not, correct?</p> <p>16 A. Yeah, for a variety of reasons, I'm sure.</p> <p>17 Q. Okay. And has MDE ever taken measures to try to</p> <p>18 solve that problem?</p> <p>19 A. No.</p> <p>20 Q. Are you aware of --</p> <p>21 A. Not to my knowledge.</p> <p>22 Q. Okay. Are you aware that State dollars go to</p> <p>23 religious schools through school lunch programs?</p> <p>24 A. Yes.</p> <p>25 Q. Would you have been aware of that the entire time</p>

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<p>1 you worked it the MDE?</p> <p>2 A. I can't say the entire time but the majority of the</p> <p>3 time, yes. I would have been aware of that.</p> <p>4 Q. Early in your time?</p> <p>5 A. Yeah. I -- yeah.</p> <p>6 Q. Okay. The State funds go to private religious</p> <p>7 schools for textbooks.</p> <p>8 A. Correct, for nonsectarian textbooks.</p> <p>9 Q. But they go to religious schools?</p> <p>10 A. Funding to purchase textbooks.</p> <p>11 Q. And there's funding that goes to religious schools</p> <p>12 for transportation?</p> <p>13 A. Nonpublic people pay transportation -- yes, correct.</p> <p>14 Q. Do you know what SPED services are?</p> <p>15 A. Special education services?</p> <p>16 Q. And are you aware that special education services</p> <p>17 and funding go the private religious schools?</p> <p>18 A. I'm not aware of them going to private schools. I'm</p> <p>19 aware of -- this is what I'm aware of: I'm aware of</p> <p>20 students who attend private schools being able to</p> <p>21 avail themselves of the FAPE or Free and Appropriate</p> <p>22 Education, and that's where special education</p> <p>23 services fall under. Or is it GAPE? One of those</p> <p>24 two. Federal law requires all students to be able</p> <p>25 to access special education services at public</p>	<p>1 services because I don't think that's accurate.</p> <p>2 Q. And MDE has never proposed legislation to stop State</p> <p>3 funding from going to religious school with</p> <p>4 religious admission requirements except in the PSEO</p> <p>5 program, correct?</p> <p>6 A. I don't know the answer to that. In my tenure, no.</p> <p>7 Q. Okay. And is there any reason why it hasn't been</p> <p>8 concerned about those other alleged constitutional</p> <p>9 violations?</p> <p>10 A. I can't -- I can't speak to the nuances of access</p> <p>11 for meals, access for nonsectarian textbooks. And</p> <p>12 I'll remind you that it's -- there's no challenge to</p> <p>13 nonsectarian -- participation in nonsectarian course</p> <p>14 at religiously-affiliated institutions, and I</p> <p>15 believe there's -- we've -- I actually believe we've</p> <p>16 had proposals for PSEO dollars to be spent on</p> <p>17 transportation to any public or private entity in</p> <p>18 the past. And so I don't think we've ever proposed</p> <p>19 any type of legislation to restrict access to those</p> <p>20 services since I've been there.</p> <p>21 Q. Okay.</p> <p>22 (Exhibit 14 was marked for</p> <p>23 identification.)</p> <p>24 BY MR. BAXTER:</p> <p>25 Q. All Right. Have you take a look at this document</p>
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<p>1 schools.</p> <p>2 Q. Okay. And where private schools receive funding for</p> <p>3 the lunch program, textbooks, transportation, some</p> <p>4 those private schools are religious schools,</p> <p>5 correct?</p> <p>6 A. Correct.</p> <p>7 Q. And they're elementary schools, middle schools, high</p> <p>8 schools, postsecondary, correct?</p> <p>9 A. Correct.</p> <p>10 Q. And many of those schools have religious admissions</p> <p>11 requirements, correct?</p> <p>12 A. I would say -- I don't know. I haven't screened</p> <p>13 those institutions. I have not screened what the</p> <p>14 admission criteria are for K through 12 schools.</p> <p>15 Q. Have you ever raised those concerns that those</p> <p>16 schools might have religious admission requirements</p> <p>17 even though they're receiving State funding?</p> <p>18 A. No.</p> <p>19 Q. Just at the -- just at the PSEO program level?</p> <p>20 A. I can't say that that's the entirety of concerns</p> <p>21 that I've raised around admission criteria. But I</p> <p>22 think -- I don't recall having concerns around</p> <p>23 admissions criteria for -- raising concerns around</p> <p>24 admissions criteria for lunches, textbooks,</p> <p>25 transportation. I'm not going to go to include SPED</p>	<p>1 which has been marked Exhibit 14. Let me know when</p> <p>2 you've had a chance to look at it.</p> <p>3 A. Okay.</p> <p>4 Q. Are you familiar with this document?</p> <p>5 A. I am.</p> <p>6 Q. What is it?</p> <p>7 A. It's an exchange between Greg Johnson and Heidi</p> <p>8 Hoefs, Jen Niska, and Todd -- nope. It's just Greg</p> <p>9 and Jen with myself around the questions that they</p> <p>10 had about implications to their programming if the</p> <p>11 law were to go into place. And they provided some</p> <p>12 examples to which we provided responses.</p> <p>13 Q. Okay. And Greg emailed you -- Greg and Jen emailed</p> <p>14 you on March 9th; is that correct?</p> <p>15 A. Correct.</p> <p>16 Q. And you responded on March 17th?</p> <p>17 A. Yes.</p> <p>18 Q. And were there discussions internally at MDE about</p> <p>19 how to respond?</p> <p>20 A. Yes.</p> <p>21 Q. And who were those discussions with?</p> <p>22 A. I believe counsel and then probably -- probably</p> <p>23 someone on my Government Relations team was cc'ed on</p> <p>24 that. It may or may not have included members of</p> <p>25 the -- probably did, but members of the Career and</p>

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<p>1 College Services Department.</p> <p>2 Q. Outside of counsel, what were the -- were there</p> <p>3 different opinions within MDE about how the</p> <p>4 effective date would impact which student could get</p> <p>5 PSEO funding and which student couldn't?</p> <p>6 MR. TIMMERMAN: I'll just jump in here</p> <p>7 to advise you not to answer to the extent it</p> <p>8 would reveal any information shared at any</p> <p>9 meeting which counsel was present to provide</p> <p>10 legal advice.</p> <p>11 THE WITNESS: Yeah. I don't think I</p> <p>12 engaged in conversations to answer this</p> <p>13 without counsel.</p> <p>14 BY MR. BAXTER:</p> <p>15 Q. Okay. What was your understanding of what advice</p> <p>16 MDE gave Northwestern and Crown in response to their</p> <p>17 questions?</p> <p>18 A. My understanding is what we provided here in the</p> <p>19 email, that they would be clarifying how it would</p> <p>20 apply and the examples they brought up would be in</p> <p>21 compliance based on when the effective date of the</p> <p>22 policy passage would be.</p> <p>23 Q. And your response was, essentially, if I'm recalling</p> <p>24 correctly, is that anybody enrolled before</p> <p>25 August 1st, they could still use the PSEO dollars at</p>	<p>1 long as I'm not contradicting what we said here, I</p> <p>2 believe it's if they were admitted in that summer,</p> <p>3 so this last summer and they continued on for two</p> <p>4 years, they wouldn't have to -- I believe they said</p> <p>5 we wouldn't have to reapply.</p> <p>6 Q. So why didn't why -- why would MDE have continued to</p> <p>7 pay just because people applied before August 1st if</p> <p>8 you were trying to end inequitable access?</p> <p>9 A. As a policy decision, it was -- it was -- for the</p> <p>10 intent that we didn't want to rip away the</p> <p>11 opportunity for students who were already engaged in</p> <p>12 making the decisions about where they wanted to take</p> <p>13 PSEO or those that were already in the program. So</p> <p>14 it was focused on the students.</p> <p>15 Q. And was it ever a concern that the students who</p> <p>16 applied after August 1st would have that funding</p> <p>17 ripped away from them?</p> <p>18 A. The intent was that the -- the intent -- the policy</p> <p>19 intent of the proposal was that the practice would</p> <p>20 stop and the opportunity would remain to attend the</p> <p>21 programs.</p> <p>22 Q. And did it ever occur to you that the religious</p> <p>23 school might stop offering PSEO to maintain their</p> <p>24 religious environments on campus?</p> <p>25 A. That was presented as an option that they could</p>
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<p>1 Crown and Northwestern, correct?</p> <p>2 A. Just reframe how it works. So the student gets</p> <p>3 accepted into the PSEO program, and then the PSI,</p> <p>4 postsecondary institution, gets reimbursement from</p> <p>5 the State. So it's not like the student has these</p> <p>6 portable dollars. It's not like a scholarship or</p> <p>7 voucher or anything like that.</p> <p>8 Q. They can choose to take it anywhere they want,</p> <p>9 right?</p> <p>10 A. They can. They can.</p> <p>11 Q. They'll reimburse that institution?</p> <p>12 A. Yeah, the institution, yeah. So there's no flow</p> <p>13 through through the student. That's just what I</p> <p>14 wanted to make clear. Yeah. So this -- I think</p> <p>15 it's -- the question was, is that the postsecondary</p> <p>16 institution, Northwestern, being used as an example</p> <p>17 here, could continue with its current admissions</p> <p>18 process for students who are accepted, I believe as</p> <p>19 we stated before, and the admissions process</p> <p>20 completed before August 1st.</p> <p>21 Q. Okay. So long as the student was admitted to the</p> <p>22 PSI before August 1st, the State would continue to</p> <p>23 reimburse as long as they were in the program or</p> <p>24 just for the next year or --</p> <p>25 A. I believe it appears what we've said here. So as</p>	<p>1 avail themselves of by -- by them.</p> <p>2 Q. And was that a concern that that would then be</p> <p>3 cutting off the largest number of -- the largest</p> <p>4 PSEO provider in the state?</p> <p>5 A. I think that prevailing concern was equitable access</p> <p>6 based on protected class.</p> <p>7 Q. And how would that help protected classes get into</p> <p>8 Northwestern if they stopped offering PSEO credit?</p> <p>9 A. I think that would then be that was the choice --</p> <p>10 our opinion was that was the choice of the</p> <p>11 postsecondary institution to stop offering it.</p> <p>12 Q. So you didn't care as long as the school chose not</p> <p>13 to offer it to them?</p> <p>14 A. I wouldn't say we didn't care. I would say that it</p> <p>15 was about maintaining or creating or establishing</p> <p>16 clear equitable access to programs where no one was</p> <p>17 denied the opportunity based on a protected class.</p> <p>18 Q. And why did you stop at protected classes? Why not</p> <p>19 focus on students that lack the same intelligence as</p> <p>20 other students. Because isn't it correct that a lot</p> <p>21 of schools have academic requirements for admission?</p> <p>22 A. I think that each postsecondary institution is</p> <p>23 allowed to establish, like, academic rigor. Maybe</p> <p>24 some -- some -- they can look at GPA or something</p> <p>25 like that. I think that might be the case. I would</p>

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<p>1 have to -- for the nuances of that, I would have to</p> <p>2 defer to the program staff.</p> <p>3 Q. You know -- you applied at the University of</p> <p>4 Minnesota. You knew that they were looking at your</p> <p>5 GPA, right?</p> <p>6 A. Yeah. I mean, right.</p> <p>7 Q. And you know that most schools do that?</p> <p>8 A. I -- but you're talking about -- to me -- for law</p> <p>9 school, yes.</p> <p>10 Q. Okay. And you're --</p> <p>11 A. You're talking about PSEO. I don't think every</p> <p>12 institution has the same criteria that they</p> <p>13 establish for entering into the PSEO program.</p> <p>14 Q. But you must be aware that many students do have --</p> <p>15 I mean -- sorry -- many schools do have academic</p> <p>16 requirement for those PSEO students.</p> <p>17 A. Yes.</p> <p>18 Q. And that means that students with lower IQs have</p> <p>19 less opportunity to get into those schools, correct?</p> <p>20 MR. TIMMERMAN: Objection, calls for</p> <p>21 speculation.</p> <p>22 THE WITNESS: I don't know if lower IQ</p> <p>23 -- I just -- like, I'm kind of uncomfortable</p> <p>24 with that question. Can you rephrase it?</p> <p>25 BY MR. BAXTER:</p>	<p>1 for access to their programs, to access</p> <p>2 their extracurricular activities have had a</p> <p>3 long history, I think, of exclusion based on</p> <p>4 people's access to opportunities.</p> <p>5 BY MR. BAXTER:</p> <p>6 Q. And MDE hasn't proposed any legislation to overcome</p> <p>7 that barrier to PSEO, has it?</p> <p>8 A. We have.</p> <p>9 Q. Okay. How have you done that?</p> <p>10 A. In the 2021, I think, the 2022 legislative sessions,</p> <p>11 we proposed a, gosh, \$5 million -- I can't remember</p> <p>12 what it was -- to improve access for</p> <p>13 underrepresented communities both geographically and</p> <p>14 based, I think, on income and based on race for</p> <p>15 access to PSEO, concurrent enrollment, AP/IB courses,</p> <p>16 as well as CT courses. So those would have been</p> <p>17 grants to districts and charters to increase access</p> <p>18 to those, so it would be historically</p> <p>19 underrepresented communities in those programs.</p> <p>20 Q. So one way to approach this problem is to kind of</p> <p>21 give more money to schools to encourage broader</p> <p>22 application in admissions practices?</p> <p>23 A. I think it would be for more funding for districts.</p> <p>24 I think it was to districts and charters -- it may</p> <p>25 have been to postsecondary institutions -- to find</p>
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<p>1 Q. Sure. If the student -- if the school has a certain</p> <p>2 academic rigor requirement, students who may not be</p> <p>3 able to meet that requirement, they're -- they're</p> <p>4 precluded from going to that school and using PSEO</p> <p>5 funds; is that correct?</p> <p>6 A. If someone doesn't meet an academic rigor</p> <p>7 qualification, my understanding is a school can use</p> <p>8 that one factor to determine if the student is able</p> <p>9 to gain access to the program.</p> <p>10 Q. They could exclude a student based on that factor,</p> <p>11 correct?</p> <p>12 A. I don't know if any does. I guess, maybe.</p> <p>13 Q. It's -- there's nothing in MDE that stops a school</p> <p>14 from excluding students from meeting certain</p> <p>15 academic requirements, correct?</p> <p>16 A. Correct.</p> <p>17 Q. And it makes sense that that would -- or would</p> <p>18 disproportionately affect students who had less</p> <p>19 educational opportunities, who maybe have less</p> <p>20 innate talents. That's a fair statement, right?</p> <p>21 MR. TIMMERMAN: Objection, calls for</p> <p>22 speculation.</p> <p>23 You can answer, if you want.</p> <p>24 THE WITNESS: The academic rigor</p> <p>25 requirements of postsecondary institutions</p>	<p>1 creative ways to create programming for students. I</p> <p>2 don't know if we delved into any rules or guidelines</p> <p>3 around their admission program. That may have very</p> <p>4 well if those things passed. It may very well have</p> <p>5 been a portion of the grant application, but I don't</p> <p>6 know.</p> <p>7 Q. But MDE has never proposed legislation that would</p> <p>8 bar funds -- PSEO funds going to schools that have</p> <p>9 academic admission requirements, correct?</p> <p>10 A. Not in my tenure. Not to my recollection.</p> <p>11 Q. Okay. Are you familiar with Bethany College?</p> <p>12 A. I -- I've heard of Bethany.</p> <p>13 Q. Bethany Lutheran College?</p> <p>14 A. I've heard of Bethany.</p> <p>15 Q. Are you familiar with Bethany's religious identity?</p> <p>16 A. I am not.</p> <p>17 Q. Have you looked at their religious requirements for</p> <p>18 students?</p> <p>19 A. I have not.</p> <p>20 (Exhibit 15 was marked for</p> <p>21 identification.)</p> <p>22 BY MR. BAXTER:</p> <p>23 Q. Do you see where this says that -- that "Bethany is</p> <p>24 an arm of the Evangelical Luther Synod that upholds</p> <p>25 the teachings of the bible"? It's the third line</p>

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<p>1 down.</p> <p>2 A. I do see that.</p> <p>3 Q. Okay. And then do you see the first sentence of the</p> <p>4 second paragraph that says, "In cases when a student</p> <p>5 challenges or disparages the teaching, operations,</p> <p>6 or beliefs of the college in a manner that disrupts</p> <p>7 an atmosphere of Christina teaching, learning, or</p> <p>8 living," then it says, "The college will work with</p> <p>9 the student," and then going down two lines, "If the</p> <p>10 student persists in challenging or disparaging the</p> <p>11 teachings of the Synod, the college reserves the</p> <p>12 right to advise the student to continue his or her</p> <p>13 education elsewhere."</p> <p>14 So at face value, this suggests that at</p> <p>15 Bethany, the school reserves the right to expel</p> <p>16 students who don't live up to its religious</p> <p>17 expectations, correct?</p> <p>18 A. I -- it appears that that's what they're saying.</p> <p>19 Q. Is there any reason why MDE has gone after schools</p> <p>20 that have religious admission requirements but not</p> <p>21 schools that reserve the right to expel students for</p> <p>22 religious noncompliance?</p> <p>23 A. I don't know. I haven't contemplated that question.</p> <p>24 Q. Okay.</p> <p>25 A. And I wouldn't -- I wouldn't phrase it as, "Gone</p>	<p>1 Q. So is it your understanding that would bar tribal</p> <p>2 schools from restricting admissions to students who</p> <p>3 share affinity with the tribe's creed or values?</p> <p>4 A. I don't -- I'm not aware -- I think if -- I think</p> <p>5 any participating institution in the program would</p> <p>6 have to comply with the law.</p> <p>7 Q. Have you ever seen a syllabus from any PSEO courses</p> <p>8 offered by Crown and Northwestern?</p> <p>9 A. I believe -- I may have in preparation for this.</p> <p>10 Q. Okay. Are you aware that Crown and Northwestern</p> <p>11 have long disclosed to MDE that their PSEO courses</p> <p>12 are offered through a lens of faith?</p> <p>13 A. My understanding -- I'm trying to think back to the</p> <p>14 documents we reviewed from, like, the 2008 and 2016.</p> <p>15 I mean, the most concrete, like, familiarity I have</p> <p>16 is that they've signed the Statements of Assurance</p> <p>17 that the courses are nonsectarian.</p> <p>18 Q. And are you currently investigating any religious</p> <p>19 schools for compliance with the nonsectarian</p> <p>20 requirement?</p> <p>21 A. I'm not aware of that. I'm not part of those</p> <p>22 activities if that is or isn't occurring.</p> <p>23 Q. And is it your understanding that that requirement</p> <p>24 is not at issue in this case?</p> <p>25 A. I don't -- I mean, my understanding -- what I'm here</p>
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<p>1 after schools." It's we're trying to curtail an</p> <p>2 inequitable practice.</p> <p>3 Q. Are you familiar with the section of the Minnesota</p> <p>4 Code that addresses PSEO programming?</p> <p>5 A. Generally.</p> <p>6 Q. Okay.</p> <p>7 A. I will admit, at times, it's a confusing statute.</p> <p>8 Q. Sure. Does Code 124D.09 mean anything to you?</p> <p>9 A. Yes.</p> <p>10 Q. And are you aware of the provision in that code that</p> <p>11 provides for solutions for students who have to</p> <p>12 travel more than 40 miles to get to a PSEO school?</p> <p>13 A. Is that around marketing or advertising to them?</p> <p>14 Q. Not sure. Do you have any familiarity with --</p> <p>15 A. Not off the top -- I could take a look at the</p> <p>16 statute and...</p> <p>17 Q. Did MDE ever consider taking a broader view on the</p> <p>18 amendment besides, for example, to consider tribal</p> <p>19 colleges that restrict admission to alignment with</p> <p>20 tribal values?</p> <p>21 A. I did not engage in any of those conversations.</p> <p>22 Q. Okay.</p> <p>23 A. I think this -- I mean, this provision, I believe,</p> <p>24 applies to all participant institutions in this</p> <p>25 program and their admission status.</p>	<p>1 to discuss in my personal and 30(b)(6) capacity is</p> <p>2 around the law that was passed, which contemplates</p> <p>3 admission criteria. I know there are documents that</p> <p>4 contemplate that other issue, though.</p> <p>5 Q. Okay. Did you hear other legislators -- during the</p> <p>6 2022-2023 legislative session or cycle, did you ever</p> <p>7 hear any of them say anything negative about Crown's</p> <p>8 religious belief?</p> <p>9 A. No.</p> <p>10 Q. About Northwestern's religious beliefs?</p> <p>11 A. No.</p> <p>12 Q. Did you ever hear them saying they didn't agree with</p> <p>13 those beliefs?</p> <p>14 A. Actually, can you go back and rephrase those first</p> <p>15 two questions again?</p> <p>16 Q. Asked if you ever heard legislators ever say</p> <p>17 anything negative about Crown's religious beliefs?</p> <p>18 A. I did hear critical remarks about statements that</p> <p>19 were made on their website, on Crown and -- no -- on</p> <p>20 Northwestern's website. I don't know about Crown's.</p> <p>21 Q. And who did you hear that from?</p> <p>22 A. I cannot remember if it was legislators' staff or</p> <p>23 legislators specifically. It would have been the</p> <p>24 chairs in the Senate and possibly the House but I</p> <p>25 think in the Senate.</p>

<p style="text-align: right;">Page 206</p> <p>1 Q. Do you remember specifically what was said?</p> <p>2 A. I think it was comments around statement -- critical</p> <p>3 comments of statements on sexual orientation and</p> <p>4 gender identity that are on the Student Code of</p> <p>5 Conduct.</p> <p>6 Q. And did you ever hear legislators or anyone else</p> <p>7 involved in the amendment accuse Crown or</p> <p>8 Northwestern of being anti-LGBT or bigots or</p> <p>9 anything like that?</p> <p>10 A. Certainly not using the word "bigots." I'm just</p> <p>11 trying to think about the first question. I think I</p> <p>12 -- think it was more comments reflective of what's</p> <p>13 on the page, and the Student Code of Conduct appears</p> <p>14 to us to be at odds with being support of the LGBTQ</p> <p>15 community.</p> <p>16 Q. Do you remember who said that?</p> <p>17 A. Maybe the chairs and the staff.</p> <p>18 Q. Do you remember if it was the chair in the House or</p> <p>19 the Senate?</p> <p>20 A. I think it was the Senate, maybe the House. I just</p> <p>21 don't remember. It was solely when -- I know those</p> <p>22 conversation came up, but I just, like -- these</p> <p>23 conversations were fluid. We're going in and out</p> <p>24 other topics.</p> <p>25 Q. There seems to be something specific you're</p>	<p style="text-align: right;">Page 208</p> <p>1 for the record that we think that that</p> <p>2 objection has been waived by Mr. Adosh's</p> <p>3 [sic] admissions or his discussions with</p> <p>4 third parties and intend to challenge that.</p> <p>5 And that's it for the record.</p> <p>6 MR. TIMMERMAN: Understood.</p> <p>7 MR. BAXTER: That's it. We'll leave</p> <p>8 the deposition open for potential</p> <p>9 continuation, but for today, we'll --</p> <p>10 MR. TIMMERMAN: We'll read and sign.</p> <p>11 Condensed electronic for us would be great.</p> <p>12 MR. BAXTER: Yeah.</p> <p>13 (The foregoing proceeding concluded at</p> <p>14 3:15 p.m.)</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 207</p> <p>1 recalling? Is there any more detail you have about</p> <p>2 that?</p> <p>3 A. No. I think it was -- I think it was a reference --</p> <p>4 someone had looked up the Student Code of Conduct.</p> <p>5 Because they kind of delved into what do you need to</p> <p>6 -- what do you -- what would you need to affirm</p> <p>7 statements? And I think a Student Code of Conduct</p> <p>8 is a very common thing that you have to affirm that</p> <p>9 you're upholding when you're applying to</p> <p>10 postsecondary institutions, and I think someone took</p> <p>11 a look at it and saw that.</p> <p>12 MR. BAXTER: Why don't we take just a</p> <p>13 five-minute break and see if there's</p> <p>14 anything else? Like I said, we'll leave the</p> <p>15 deposition open for potential follow-up.</p> <p>16 (A recess was had from 3:09 p.m. until</p> <p>17 3:14 p.m.)</p> <p>18 MR. BAXTER: Okay. Back on the record.</p> <p>19 I just want to note on the record that I</p> <p>20 would like to ask Mr. Unni questions about</p> <p>21 what the AG told him that he then disclosed</p> <p>22 to third parties. Are you going to instruct</p> <p>23 him not to answer those questions?</p> <p>24 MR. TIMMERMAN: Yes.</p> <p>25 MR. BAXTER: I just want to make clear</p>	<p style="text-align: right;">Page 209</p> <p>1 STATE OF MINNESOTA)</p> <p>2) ss</p> <p>3 COUNTY OF ANOKA)</p> <p>4 BE IT KNOWN THAT I, Christina M. De Grande,</p> <p>5 the undersigned professional stenographic court</p> <p>6 reporter took the proceedings on January 29, 2024.</p> <p>7 I do hereby certify that I was then and there a</p> <p>8 notary public in and for the County of Anoka, State</p> <p>9 of Minnesota, and by virtue thereof, I am duly</p> <p>10 authorized to administer an oath;</p> <p>11 That before testifying, the witnesses were</p> <p>12 first duly sworn under oath by me to testify to the</p> <p>13 whole truth relative to the cause under</p> <p>14 consideration.</p> <p>15 The foregoing 208 pages are a true and accurate</p> <p>16 copy of my original stenotype notes as transcribed</p> <p>17 by computer-aided transcription taken relative to</p> <p>18 the aforementioned matter.</p> <p>19 I am not related to any of the parties hereto</p> <p>20 nor am I interested in the outcome of the action.</p> <p>21 WITNESS MY HAND AND SEAL this 3rd day of</p> <p>22 February, 2024.</p> <p>23 </p> <p>24 _____</p> <p>25 CHRISTINA M. DE GRANDE Professional Stenographic Court Reporter And Notary Public Commission expires January 31, 2027</p>

<p style="text-align: right;">Page 210</p> <p>1 Jeff Timmerman, Esquire 2 Jeff.timmermmmerman@ag.state.mn.us 3 4 RE: Loe, Melinda And Mark v. Jett, Willie Et Al. 5 1/29/2024, Adosh Unni (MDE 30(b)(6)) (#6439446) 6 The above-referenced transcript is available for 7 review. 8 Within the applicable timeframe, the witness should 9 read the testimony to verify its accuracy. If there are 10 any changes, the witness should note those with the 11 reason, on the attached Errata Sheet. 12 The witness should sign the Acknowledgment of 13 Deponent and Errata and return to the deposing attorney. 14 Copies should be sent to all counsel, and to Veritext at 15 cs-midatlantic@veritext.com. 16 Return completed errata within 30 days from 17 receipt of testimony. 18 If the witness fails to do so within the time 19 allotted, the transcript may be used as if signed. 20 21 22 Yours, 23 Veritext Legal Solutions 24 25</p>	<p style="text-align: right;">Page 212</p> <p>1 Loe, Melinda And Mark v. Jett, Willie Et Al. 2 Adosh Unni (MDE 30(b)(6)) (#6439446) 3 ACKNOWLEDGEMENT OF DEPONENT 4 I, Adosh Unni, do hereby declare that I 5 have read the foregoing transcript, I have made any 6 corrections, additions, or changes I deemed necessary as 7 noted above to be appended hereto, and that the same is 8 a true, correct and complete transcript of the testimony 9 given by me. 10 11 _____ 12 Adosh Unni Date 13 *If notary is required 14 SUBSCRIBED AND SWORN TO BEFORE ME THIS 15 _____ DAY OF _____, 20____. 16 17 18 _____ 19 NOTARY PUBLIC 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 211</p> <p>1 Loe, Melinda And Mark v. Jett, Willie Et Al. 2 Adosh Unni (MDE 30(b)(6)) (#6439446) 3 E R R A T A S H E E T 4 PAGE____ LINE____ CHANGE_____ 5 _____ 6 REASON_____ 7 PAGE____ LINE____ CHANGE_____ 8 _____ 9 REASON_____ 10 PAGE____ LINE____ CHANGE_____ 11 _____ 12 REASON_____ 13 PAGE____ LINE____ CHANGE_____ 14 _____ 15 REASON_____ 16 PAGE____ LINE____ CHANGE_____ 17 _____ 18 REASON_____ 19 PAGE____ LINE____ CHANGE_____ 20 _____ 21 REASON_____ 22 _____ 23 _____ 24 Adosh Unni Date 25</p>	

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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